AFFORDABLE HOUSING IN NEW JERSEY: *THE MOUNT LAUREL DOCTRINE*

FAIR SHARE HOUSING CENTER

Disparities in wealth, health, and general well-being are inextricably linked to housing access, making residential segregation a public health issue. When Black and Brown people and low-income families are denied access to affordable housing in thriving communities, they are also denied access to quality education, better paying jobs, comprehensive healthcare, and the ability to create generational wealth for their families. While New Jersey remains a fundamentally segregated state, the Mount Laurel Doctrine creates pathways for racial and economic integration and a better quality of life for New Jersey's low-income families and residents of color.

THE MOUNT LAUREL DOCTRINE

While there are many types of affordable housing, the Mount Laurel Doctrine is a unique type of affordable housing specific to New Jersey that was established through a series of watershed New Jersey Supreme Court decisions. The Mount Laurel Doctrine creates a constitutional obligation for New Jersey municipalities to provide their "fair share" of their region's need for affordable housing. Affordable housing obligations are based on population changes and growth over time in a region. The current round of affordable housing obligations go through 2025, at which point another round of obligations will begin.

In accordance with the Doctrine, towns are required to affirmatively create a Housing Element and Fair Share Plan that lays out how the town intends to meet its affordable housing obligation for the current round.

Towns have a significant amount of flexibility in how they can meet their obligation. They can build 100% affordable developments, special needs or age-restricted affordable housing, or market rate housing with affordable housing set aside. Towns are also required by law to follow certain rules that safeguard access to affordable housing for low-income families and communities of color. For example, half of all units must be available to families, 25% of all units must be rentals, and only 25% of all units can be age-restricted. There are also strict income restrictions that towns must follow – at least 50% of homes must be affordable to low-income residents (below 50% AMI) and at least 13% of homes must be set aside for very low-income residents (below 30% AMI). The remainder must be affordable to moderate income residents (50% - 80% AMI).

ENFORCEMENT

The Mount Laurel Doctrine creates strong enforcement mechanisms if towns fail to comply with their fair share obligations, including builder's remedy lawsuits and other compliance challenges in court. Enforcement is key to achieving the Doctrine's aims of addressing segregation and ensuring affordable housing development throughout the state. As the legal entity designated by the New Jersey Supreme Court to represent the interests of the public, Fair Share Housing Center has settled more than 340 cases with municipalities throughout the state. More than 300 of those towns are in compliance, the highest number of towns to reach that status since the original establishment of the Mount Laurel Doctrine in 1975. As a result of the current settlement agreements, over 20,000 affordable homes have been built since 2017, with tens of thousands more still underway.

LOOKING FORWARD

In 2025, New Jersey will enter the fourth round of affordable housing obligations under the Mount Laurel Doctrine. Towns' obligations will be reassessed based on New Jersey's growing and changing population to meet the needs of New Jersey residents.

While New Jersey is still facing a significant shortage of affordable homes, the state is also experiencing unprecedented development in comparison to neighboring jurisdictions in the region. The Mount Laurel Doctrine is a critical part of the solution to the current housing crisis, along with other policies championed by FSHC and partners such as tenant protections, additional state funding, and measures to address displacement in gentrifying neighborhoods.

A HISTORY OF AFFORDABLE HOUSING IN NJ

1975 In 1975, the New Jersey Supreme Court ruled in favor of the plaintiffs in the case of Southern Burlington NAACP v. Mount Laurel Township. This decision, known as Mount Laurel I, outlawed exclusionary zoning and required all New Jersey municipalities to provide their "fair share" of their region's affordable housing. This landmark civil rights case established one of the strongest frameworks in the country to prevent and address residential segregation.

1983 In 1983, the New Jersey Supreme Court upheld its initial Mount Laurel I decision. This second ruling created new avenues to ensure compliance with the Mount Laurel Doctrine, including the builder's remedy. Mount Laurel II also invited the legislature to draft legislation to implement the Doctrine.

1985 The New Jersey Legislature passed the Fair Housing Act (FHA) in 1985 to implement the Mount Laurel Doctrine. The FHA established the Council on Affordable Housing (COAH) and an administrative process for towns to submit affordable housing plans to COAH. COAH became responsible for the oversight and compliance of the Mount Laurel Doctrine.

2008 In 2008, after decades of work by FSHC and coalition partners, the Fair Housing Act was amended to eliminate Regional Contribution Agreements (RCA's). RCA's permitted wealthier towns to pay poorer towns to satisfy their affordable housing obligations, thereby undermining the Mount Laurel Doctrine. The 2008 amendments also expanded the definition of affordable housing to include the third category of very low-income housing.

2015 In 2015, after fifteen years of nonenforcement of the Mount Laurel Doctrine by COAH, the New Jersey Supreme Court held in Mount Laurel IV that the judicial system would be responsible for municipal compliance with the Mount Laurel Doctrine. Since 2015, as the legal entity designated to represent the interests of the public by the New Jersey Supreme Court, Fair Share Housing Center has entered into affordable housing settlement agreements with more than 340 municipalities throughout the state.

2017 In 2017, the New Jersey Supreme Court held that the third round of affordable housing obligations should include the 15 year gap period when COAH did not enforce the Doctrine. This decision ensured that municipalities would be held accountable for their failure to meet their towns' needs for affordable housing while COAH was a defunct state agency.

2022 In 2022, for the first time, the New Jersey Fiscal Year 2023 Budget included a line item of $305M specifically dedicated to the development of already approved affordable housing projects in Mount Laurel settlement agreements. This significant victory, secured through FSHC's advocacy, will accelerate affordable housing development across the state. An anticipated 3,300 affordable homes will be built with this funding.

2024 In 2024, a new law was enacted that amended the Fair Housing Act to protect and expand the Mount Laurel Doctrine. The law eliminated COAH, maintained the ban on Regional Contribution Agreements, and streamlined the affordable housing development process for everyone involved by codifying the methodology used to determine affordable housing obligations.