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Long-Awaited Decision Sets New Jersey Methodology for Municipal Affordable Housing Obligations.

On March 8, Judge Mary Jacobson issued her long-awaited affordable housing decision in Mercer County on the methodology for calculating statewide and municipal affordable housing obligations. The decision also set the numbers for the Mercer County towns that did not settle their litigation, Princeton and West Windsor (Municipalities). The 217-page decision meticulously went through the various (approximately two dozen) components of calculating affordable housing need and the expert testimony on each component on behalf of the Municipalities, Fair Share Housing Center (FSHC), the New Jersey Builders Association (NJBA) and the court-appointed special master, Richard Reading. In general, the decision is a positive result for developers that are intervenor-defendants or interested parties in other affordable housing litigation throughout the state. However, it will take some time to analyze this decision and its application to other towns in calculating municipal affordable housing obligations.

If nothing else, the decision is positive, as it should shake loose the affordable housing litigation in other counties that have stalled while towns, special masters and the courts waited for the Mercer County decision. With respect to the substance of the decision, the court determined that the overall statewide affordable housing need is 159,630 units. That is more than double the number the Municipalities projected (63,070 units) and about half of what FSHC projected (339,673 units). The court's statewide need projection is also higher than the approximately 115,000 units projected by Reading, the special master. As anticipated on this polarizing issue, neither side "won," and the court found a happy medium. As for Princeton and West Windsor, the court determined their new-construction affordable housing obligation to be 753 units and 1,500 units, respectively. This includes the obligation from the "gap period" (1999 to 2015) and prospective need obligation. Though not referenced in the decision, the below chart compares the court's municipal projection with the projections made by the Municipalities and FSHC in prior reports submitted to the court.

Continue reading.

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