

Bond Case Briefs

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ZONING - NEW JERSEY

In re Adoption of N.J.A.C. 5:96

Supreme Court of New Jersey - March 10, 2015 - A.3d - 2015 WL 1015065

Builders' association and affordable housing advocacy organizations, among others, appealed from Council on Affordable Housing's (COAH) adoption of third-round substantive rules for calculation of affordable housing needs and criteria for satisfaction of needs, for purposes of municipalities' duty under *Mount Laurel* doctrine to provide for a realistic opportunity for fair share of region's needs for affordable housing.

The Superior Court, Appellate Division, affirmed in part, reversed in part, and remanded. Parties petitioned and cross-petitioned for review. The Supreme Court of New Jersey affirmed as modified. Subsequently, advocacy organization filed motion in aid of litigants' rights.

The Supreme Court of New Jersey held that Court would dissolve exhaustion-of-administrative-remedies requirement of Fair Housing Act of 1985 (FHA), as relief for failure of Council on Affordable Housing (COAH) to adopt third-round substantive rules for calculation of affordable housing needs and criteria for satisfaction of needs.

Grant of motion in aid of litigants' rights was warranted, as remedy from failure of Council on Affordable Housing (COAH) to adopt third-round substantive rules for calculation of affordable housing needs and criteria for satisfaction of needs, in action by builders' association and affordable housing advocacy organizations challenging validity of rules. 15 years had passed since statutory deadline for adoption of rules, 18 months had passed since Supreme Court had affirmed Appellate Division's invalidation of rules and ordered COAH to adopt valid rules, and COAH had taken no action to adopt new rules for five months since deadlocked vote on new rules.