



Corzine Signs the Comprehensive Housing Reform Package

On July 17, 2008, Governor Corzine signed the Comprehensive Housing Reform Package, commonly known as "A-500" (the "Housing Reform Package"). The Housing Reform Package institutes sweeping changes in New Jersey's affordable housing policies and will dramatically effect how affordable housing is paid for and where it will be built.

The two most significant changes effectuated by the Housing Reform Package are the imposition of a 2.5% fee on most non-residential construction and ending the practice of Regional Contribution Agreements, where suburban towns would send up to fifty (50%) percent of their affordable housing obligations outside its borders often to urban areas or inner ring suburbs.

Regional Contribution Agreements

Effective July 17, 2008, any Regional Contribution Agreement that has not been fully approved is null and void. This ends a practice that has been both widely used and just as widely criticized. Prohibiting this practice also means that many court and COAH approved Fair Share Plans will have to be revisited and allowances made to address the COAH obligation within each municipality.

Non-Residential Development Fees

The Housing Reform Package provides that, effective July 17, 2008, a State-wide fee due at Certificate of Occupancy, shall be imposed on all construction of non-residential development, as follows:

- (1) A fee equal to 2.5 percent of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots; or
- (2) A fee equal to 2.5 percent of the increase in equalized assessed value, of the additions to existing structures to be used for non-residential purposes.

The Housing Reform Package does provide several exemptions from this State-wide fee, including:

- (1) parking lots and parking structures, regardless of whether the parking lot or parking structure is constructed in conjunction with a non-residential development, such as an office building, or whether the parking lot is developed as an independent non-residential development;
- (2) any non-residential development which is an amenity to be made available to the public, including, but not limited to, recreational facilities, community centers, and senior centers, which are developed in conjunction with or funded by a non-residential developer;
- (3) non-residential construction resulting from a relocation of or an on-site improvement to a nonprofit hospital or a nursing home facility;

(4) projects that are located within a specifically delineated urban transit hub, as defined in the Urban Transit Hub Tax Credit Act;

(5) projects that are located within an eligible municipality, as defined in the Urban Transit Hub Tax Credit Act, when a majority of the project is located within a one-half mile radius of the midpoint of a platform area for a light rail system; and

(6) projects determined by the New Jersey Transit Corporation to be consistent with a transit village plan developed by a transit village designated by the Department of Transportation.

The Housing Reform Package also provides an exemption for projects that have general development plan approval, a signed developer's agreement or signed redevelopment agreement that was executed prior to July 17, 2008 and which also provides that the developer or redeveloper pay a fee for affordable housing of at least 1 percent of the equalized assessed value of the improvements which are the subject of the development plan, developer's agreement, or redevelopment agreement.

All local development fee ordinances, including those approved by COAH, effecting non-residential development that are not consistent with the Housing Reform Package are deemed null and void and of no effect.

Other Significant Developments

Other significant items in the Housing Reform Package are as follows:

- * Establishment of a new \$20 Million fund for Workforce Housing
- * Requirement for 13% of a municipal fair share obligation, and 13% of all units funded by Balanced Housing and the statewide Affordable Housing Trust Fund, to be restricted to very-low income households (30% or less of median income)
- * Provision for planning for affordable housing opportunities based on infrastructure and transportation within 5 regions regulated by planning entities (Highlands, Meadowlands, Pinelands, Fort Monmouth, and Atlantic County)
- * Establishment of a State Housing Commission
- * Requiring that any new regulations adopted by any State agency include a Housing Impact Affordability Analysis and a Smart Growth Development Impact Analysis.

If you have any questions or want to discuss how the Housing Reform Package may effect your current or future projects, please contact a member of Archer & Greiner's Land Use Group at (856) 795-2121.