

Mayor Nick Corcodilos: Clinton Township
Mayor Frank Mazza: Union Township
Mayor Patricia Flannery: Township of Bridgewater
Mayor Christine Schaumburg: Town of Clinton
Mayor Tom Auriemma: Readington Township
Mayor William Voyce: Tewksbury Township
Mayor David Dempski: Washington Township (Warren)
Mayor Rob Walton: Borough of Hampton
Mayor Steven Tarshis: Franklin Township
Mayor Mark Paradis: Lebanon Borough

February 5, 2008

Joseph V. Doria, Jr., Commissioner
New Jersey Department of Community Affairs
101 South Broad Street
P. O. Box 800
Trenton, New Jersey 08625-0800

Re: Proposed Affordable Housing Regulations

Dear Commissioner Doria:

We are members of The 7 Town Group, an assembly of mayors of municipalities on or near the Interstate Route 78/State Route 22 Corridor, and others. (The Group was formed several years ago to address regional issues of common interest to our towns, and it has grown beyond its name.) We write to express our objection to the Third Round Affordable Housing Rules made public on December 17, 2007. Our concerns will be outlined further in forthcoming resolutions from our elected bodies, and in formal comments to COAH.

These regulations, if adopted, will impose unreasonable requirements upon our municipalities, create unsustainable Growth Share ratios, impose large retroactive obligations which will serve to undermine prior compliance efforts, have a negative impact upon economic development, and require taxpayers in our municipalities to suffer a higher tax burden. We urge the proposal be substantially revised or rejected by the Council on Affordable Housing.

Under the proposal, our municipalities are being required to plan for affordable housing based upon growth which is unlikely to occur. We view the approach by the consultants to be flawed in many respects. They viewed only a very narrow window of development that occurred prior to Highlands Legislation, Wastewater Management Regulations, and other regulatory provisions, and then made faulty assumptions about continued growth from 2002 through 2018. No real consideration was given to the impact of the Highlands Regulations, requirements for septic and ground water discharge, the impact of

Joseph V. Doria, Jr., Commissioner

Category 1 Streams, the lack of sewer infrastructure, and the extent of the availability of developable land in each municipality, as well as a host of other practical considerations affecting development.

Economic development will be negatively impacted by these aggressive Growth Share ratios. For instance, municipalities will be required to provide one affordable unit for: each four residential market units; each 5,714 square feet of office space; each 9,412 square feet of retail space. Municipalities may pass along the obligation to a developer based upon a Growth Share Ordinance, collect a development fee of up to 1.5% of market value for residential development, and 3.0% for commercial development, or collect a payment in lieu of construction capped at \$145,903. Developers will struggle to satisfy the Growth Share ratios in prospective development, whether it be satisfied by actual construction or payment in lieu. Payment in lieu, alone, will add over \$25 per square foot to the cost of office construction. These added costs and obligations are sure to have impact on attracting quality development as we in the Route 78 Corridor continue to compete with Pennsylvania.

Moreover, municipalities that do not opt to impose this heavy construction burden on developers, will be forced to burden property taxpayers for this prospective Growth Share obligation. The cost of Regional Contribution Agreements is to be increased to \$67,000 per unit with no commensurate funding source. We note that no rationale has been provided as to why the cost of an RCA is being increased to such an extent, and we have concern the proposal will create a chilling effect upon the statutorily recognized compliance mechanism which will ultimately harm rural, suburban and urban municipalities alike. At even a 1.5% development fee, in order for four new residential units to fund an RCA unit, the new units would have to sell for an average price of over \$1.1 million, far above the existing average sale price. An office building, even at a 3.0% development fee, would have to have a value of almost \$400 per square foot to fund an RCA, again, far above market value. The shortfall that will result will be forced to be paid for by property taxpayers. Similarly, payments in lieu of construction are insufficient to pay for municipal construction of units, because the proposal understates construction costs and overstates the average sale price of units. Again, recourse would have to be the property taxpayer. The lack of funding sources to satisfy the compliance mechanisms, the arbitrary increase in the cost of compliance, and the artificial caps placed upon revenue sources will all have the effect of burdening our property taxpayers. We view such burden to be in violation of the Fair Housing Act, which provides the system shall not be designed to require municipalities to raise or expend municipal revenues to provide for affordable housing.

The retroactive obligation being imposed by the proposed regulations is even more insidious to the taxpayers. Many municipalities adopted Growth Share ordinances under the 2004 regulations, which provided residential developers had to construct one affordable housing unit for each eight market rate units constructed. These proposed regulations reward those efforts by assigning an even higher affordable housing obligation based upon those developments, with no means to recapture the obligation. Additionally, Second Round obligations, back to 1987, are proposed to be revised, and a retroactive Growth Share obligation, more aggressive than the earlier regulations, is to be imposed back to 2004. All of these modifications will have dramatic impact upon property taxpayers. The same problems we had identified with reference to the prospective Growth Share obligation, the mechanisms for compliance and funding sources, applies more so to this retroactive obligation. Developers, struggling to satisfy their prospective Growth Share obligation, will not be able to be used to satisfy any retroactive obligation. As a result, the various funding mechanisms, whether they be through RCA agreements or municipal construction, will have to be paid for by the local property taxpayer. While it may be argued there is some funding mechanism provided for the prospective Growth Share obligation, it is abundantly clear there is no funding mechanism provided for the large retroactive obligations now being imposed.

We implore you, the members of the Council, and the COAH staff, to recognize that there is a limit to what municipalities and developers can be called upon to satisfy in terms of an affordable housing obligation. Growth Share, as a concept, can work on a prospective basis, if the ratios are reasonable and sustainable. These proposed regulations are unworkable, will have negative impact upon economic development in the State, and most importantly to us, will over-burden our property taxpayers.

Joseph V. Doria, Jr., Commissioner

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Nick Corcodilos', with a long horizontal flourish extending to the right.

Nick Corcodilos, Mayor
Clinton Township

cc: Individual Members of COAH
Lucy Voorhoeve, Executive Director
Legislative Representatives
New Jersey State League of Municipalities

Joseph V. Doria, Jr., Commissioner

Respectfully submitted,

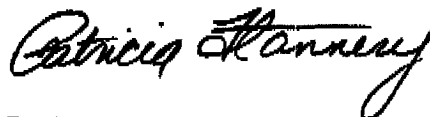


Frank Mazza, Mayor
Union Township

cc: Individual Members of COAH
Lucy Voorhoeve, Executive Director
Legislative Representatives
New Jersey State League of Municipalities

Joseph V. Doria, Jr., Commissioner

Respectfully submitted,

A handwritten signature in black ink that reads "Patricia Flannery". The signature is written in a cursive, flowing style.

Patricia Flannery, Mayor
Township of Bridgewater

cc: Individual Members of COAH
Lucy Voorhoeve, Executive Director
Legislative Representatives
New Jersey State League of Municipalities

Joseph V. Doria, Jr., Commissioner

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'CS', is written over the printed name of Christine Schaumburg.

Christine Schaumburg, Mayor
Town of Clinton

cc: Individual Members of COAH
Lucy Voorhoeve, Executive Director
Legislative Representatives
New Jersey State League of Municipalities

Joseph V. Doria, Jr., Commissioner

Respectfully submitted,



Tom Auerma, Mayor
Easton Township

cc: Individual Members of COAG
Lucy Voorhees, Executive Director
Legislative Representatives
New Jersey State League of Municipalities

Joseph V. Doria, Jr., Commissioner

Respectfully submitted,

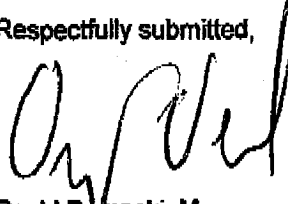


William Joyce, Mayor
Tewksbury Township

cc: Individual Members of COAH
Lucy Voorhoeve, Executive Director
Legislative Representatives
New Jersey State League of Municipalities

Joseph V. Doria, Jr., Commissioner

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Dempski", written over a horizontal line.

David Dempski, Mayor
Washington Township (Warren County)

cc: Individual Members of COAH
Lucy Voorhoeve, Executive Director
Legislative Representatives
New Jersey State League of Municipalities

Joseph V. Doria, Jr., Commissioner

Respectfully submitted,

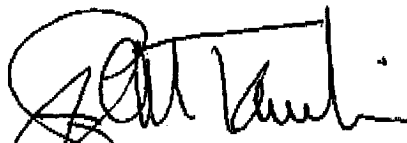
A handwritten signature in black ink that reads "Rob Walton". The signature is written in a cursive, slightly slanted style.

Rob Walton, Mayor
Borough of Hampton

cc: Individual Members of COAH
Lucy Voorhoeve, Executive Director
Legislative Representatives
New Jersey State League of Municipalities

Joseph V. Doria, Jr., Commissioner

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Steven Tarshis". The signature is fluid and cursive, with a large initial "S" and a long horizontal stroke extending to the right.

Steven Tarshis, Mayor
Franklin Township

cc: Individual Members of COAH
Lucy Voorhoeve, Executive Director
Legislative Representatives
New Jersey State League of Municipalities

Joseph V. Doria, Jr., Commissioner

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Mark Paradis', with a long horizontal stroke extending to the right.

Mark Paradis, Mayor
Lebanon Borough

cc: Individual Members of COAH
Lucy Voorhoeve, Executive Director
Legislative Representatives
New Jersey State League of Municipalities