



Township of West Milford
Office of the Mayor
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March 18, 2008

Lucy Voorhoeve, Executive Director
NJ Council on Affordable Housing
P.O. Box 813
Trenton, NJ 08625-0813

Re: Pending COAH Regulations
Via e-mail (COAHmail@dca.state.nj.us) and regular mail

Dear Ms. Voorhoeve:

As the Mayor of West Milford Township, and on behalf of the Township Council, I wish to submit a number of questions and comments which reflect the Township's concern as to the proposed procedural and substantive rules for the Third Round. Let me preface our observations and concerns by providing you with a background as to the Township of West Milford.

The Township of West Milford is approximately 80 square miles and consists of over 30 lakes and contains significant lands that service drinking water for over 700,000 residents of the State of New Jersey. Most notably, the Township is located in a P-5 Planning Designation in accordance with the State Plan for Development and Redevelopment and the entire Township is part of the Highlands Preservation Area, the most sensitive and highly protected land in the State of New Jersey.

Accordingly, the Third Round Rules pose a number of challenges and concerns to the Township of West Milford in the following manner:

1. The vacant land adjustment process is flawed in that it provides COAH with unprecedented authority to override local zoning. For example, 5:94-5.2(e) gives the Council "...the right to include additional vacant and non vacant sites that were excluded by the municipality" and to "request a letter from the owner of the site indicating the site's availability for inclusionary development." This therefore provides COAH with the authority as to where and how to designate new growth notwithstanding whether the Township has zoned and carefully planned in a manner inconsistent with such determination. The Township has specific and valuable knowledge of its lands, and as such, should be afforded the right to identify areas that are inappropriate for development.

2. The jobs-to-affordable housing ratio are unattainable from the standpoint of a municipality such as West Milford where the Highlands Act limits land development to essentially one unit for every 10+ acres of land. The new rules not only reduce the triggering threshold for an affordable unit from 25 to 16, the number of jobs projected for practically every industry-use group has been increased. Furthermore, although the jobs may never come to fruition, said jobs are nonetheless included in the COAH requirements. This is inconsistent with the Highlands Act and is unattainable.
3. We request that COAH extend the deadline to file a Petition for an Amended HE/FSP. There is simply not enough time to satisfy the deadline of December 31, 2008 given the complexity of the new rules and the need to significantly alter previous Affordable Housing strategies and to address increased growth projections imposed on municipalities. Specifically, in the case of West Milford, the municipality will have to incorporate and deal with the Highlands Act, the Highlands Regional Master Plan and its extremely environmentally sensitive lands in conjunction with the Third Round rules. Additional complications include the lack of infrastructure and previously failed high density housing developments. The COAH rules and requirements are not only complex, but they address long-term growth and planning issues which may very well transform a community. As a result, the Township will need considerable time beyond December 31, 2008 to adequately plan for meeting its Fair Share obligation on over 80 square miles of land.
4. The criteria established to determine a municipality's Realistic Development Potential in support of a vacant land analysis is overly broad and ambiguous whereby providing COAH with arbitrary discretion over local land use planning. Specifically, 5:94-5.2 requires an inventory of sites "...which involves relatively low-density development and could create an opportunity for affordable housing if inclusionary zoning was in place." What is in fact defined as "relatively low-density development?" Is low-density development defined in a different manner in a municipality that is encumbered by the Highlands Act in order to protect the extremely sensitive environmental and natural resources of the municipality?
5. Triggering new Affordable Housing obligations for the re-occupancy of existing vacant non-residential buildings is unfair and counterproductive to reinvestment in New Jersey's cities and towns.
6. The re-occupancy of existing vacant, non-residential buildings is overly burdensome and in a sense triggers housing obligations that are unfair and should not be identified with redevelopment of existing properties.
7. The regulations should eliminate any requirement relating to the 50% family housing standard and its retroactive application to prior round rental units. A retroactive application is unreasonable and unfair where municipalities previously created Affordable rental opportunities which were consistent with prior round rules, but now no longer meet this new standard. This approach negates past compliance efforts and cannot be justified.

8. Section 5:94-3.13 should be amended as it contains a presumption that Affordable Housing sites will have access to “water and sewer infrastructure with sufficient capacity, and is consistent with the applicable area wide water quality management plan (including the wastewater management plan) or is included in an amendment to the area wide water quality management plan submitted to and under review by DEP...” This section ignores the reality that many municipalities such as West Milford will have inclusionary strategies that involve development as to on-site septic systems. Further, although West Milford is in a major watershed that supplies drinking water to hundreds of thousands of residents in the State of New Jersey, the Township itself has performed studies which indicate that there is a water deficit as to the residents that are served within the Township. Therefore, these Rules should be amended to take into consideration the devastating demands on infrastructure that Affordable Housing will create on the municipality. Finally, for municipalities in the Highlands Preservation Area such as West Milford, this section contradicts the Highlands Regional Master Plan which specifically prevents the construction of new wastewater facilities.

Thank you for the opportunity to comment on the Third Round Procedural and Substantive Rules. It is our intention to assist the Council on Affordable Housing in any way so that municipalities such as West Milford have the continued right to apply for and maintain substantive certification.

Respectfully submitted,
TOWNSHIP OF WEST MILFORD

/s/ Bettina Bieri

Bettina Bieri, Mayor

cc: Members of the Township Council
Antoinette Battaglia, Interim Township Administrator/Clerk
Bill Drew, Planning Director (for distribution to Planning Board & Environmental Commission)
Governor Corzine at www.state.nj.us/governor
Senator Joseph Pennachio at SenPennachio@nileg.state.nj.us
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