

Supreme Court Denies Gov. Christie's Motion for Stay; COAH is Reinstated

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On June 5, 2012 the New Jersey Supreme Court denied Governor Christie's request to stay the Appellate Division's decision that his Reorganization Plan to abolish the Council on Affordable Housing (COAH) was invalid. The result of this decision is that COAH must immediately be reinstated and resume purview over municipal affordable housing obligations. While COAH has been reinstated, the Supreme Court must still rule on Governor Christie's request that the Court review the decision on appeal in the future.

It is not yet clear what specific actions the COAH Council may take upon being fully reinstated. However, it is anticipated that COAH will resume the review of spending plans and other affordable housing documentation. In addition, it is possible that new regulations may be drafted and released in the coming months, as the current regulations have been partially invalidated.

BSG's Planning Department is actively following new developments in this case and other judicial, legislative and executive agency actions that may impact affordable housing matters. We will continue to monitor the appeal and provide updates as information becomes available.

In light of this decision, it is important to note that municipalities continue to have an obligation to comply with COAH's regulations or risk a challenge to their affordable housing plans. Even with the current economic downturn in play and the slower pace of development, developers may still challenge Fair Share Plans in an effort to secure site plan approvals for implementation of their project at a later date, when the market demand for housing begins to increase.

Another important consideration is the viability of projects and programs within existing Housing Elements and Fair Share Plans. Many of these plans were prepared in 2008 at a time when economic conditions were different than they are today. The Great Recession has caused many residential projects to be abandoned or become unrealistic in terms of the feasibility of project implementation. This in turn has caused some Housing Elements and Fair Share Plans to have significant weaknesses that are subject to challenge, due to the infeasibility of certain projects or programs. The most straightforward way to address these issues and remove the risk of a challenge is to amend the Housing Element and Fair Share Plan.

BSG's Planning Department has successfully amended Housing Element and Fair Share Plans for municipalities throughout the State of New Jersey in order to help eliminate these risks and provide a cost effective, low-impact means of satisfying the municipal fair share obligation. BSG provides comprehensive Affordable Housing Services and has extensive experience in working with municipalities in urban, suburban and rural settings to develop Plans that are context sensitive and compatible with existing development. BSG's Affordable Housing Services include the following areas of specialization:

- **Housing Plan Elements and Fair Share Plans**
- **Spending Plans**
- **Zoning Ordinances**
- **Development Fee Ordinances**
- **Affordable Housing Program Development and Implementation**
- **Redevelopment Needs Studies and Plans**
- **Vacant Land Adjustment Analysis Reports**
- **Durational Adjustment Analysis Reports**
- **Administrative Agent Services**
- **Expert Witness Testimony in Defense of Municipalities for Builder's Remedy and Land Use Litigation**



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