

UPDATE ON PRINCETON'S AFFORDABLE HOUSING LITIGATION

The municipality of Princeton is in court to have our affordable housing obligation determined. We are in court because the State administrative process under COAH (the Council on Affordable Housing) has been dysfunctional since 1999. As a result, in 2015, the New Jersey Supreme Court created a process for towns to go to court to have their obligations determined and plans approved—a function that previously would have been performed by COAH.

Each town in New Jersey is required to create zoning to provide for its “fair share” of affordable housing. Princeton has a long, proud tradition of encouraging affordable housing that carries through to today. The question before the court is the exact amount of affordable units each town, including Princeton, will be required to zone for through 2025. There are three primary consultants working to determine that number: E-Consult, a firm jointly hired by Princeton and most other municipalities in the state; David Kinsey, retained by Fair Share Housing Center, a housing advocacy group; and Richard Reading, an independent consultant hired by the Court to serve as the court’s special master.

The municipality prepared an FAQ (Frequently Asked Questions) a few months ago that is still available on the municipal webpage at princetonnj.gov. Princeton still stands by the statements in that FAQ. However, in the time since that document was created, the NJ Supreme Court ruled that the so-called “gap period” between 1999-2015, when COAH was not in operation, must be included when calculating each municipality’s obligation. As a result of that Supreme Court decision, in the upcoming weeks, E-Consult, David Kinsey and Richard Reading will all be revising their reports and municipal calculations.

Whatever Princeton’s ultimate obligation is determined to be, the number will be significant. All of the affordable units built in Princeton since 1999 will count towards meeting that obligation, but there will still be additional zoning required. In addition, it is important to remember that the full number of new units the town must accommodate will be even greater than number of affordable units because of the way the state enables towns to require builders to include affordable units as part of their developments. The municipality provides affordable housing by encouraging developer-built units through zoning and by purchasing or subsidizing units with our affordable housing trust fund, which is paid for by fees on home construction. Much of the town is covered by inclusionary zoning, whereby any new multi-family development must include 20% affordable units. (For example, Avalon Bay consists of 280 units, of which 56 --20%-- are affordable.) The governing body will consider zoning that will encourage inclusionary housing and it also supports the expansion of 100% affordable developments. However, there is a limit to how many of the units can be built as 100% affordable projects, because the municipality must be able to demonstrate that the plan

has funding.

Princeton has been in a months-long process to attempt to reach a settlement with Fair Share Housing. If a settlement reached, then both the Council and Planning Board will develop a plan to meet that obligation, and approve it at a public meeting. If a settlement can't be reached, Princeton will continue in court and the obligation will be determined by the judge. We expect that the decision could be appealed up to the Supreme Court since the ruling would determine the formula to be used to determine other municipality's obligations state-wide.

The litigation process and rules of settlement discussion confidentiality limits our ability to detail the specifics of our negotiations and strategy. However, we have been in contact with school district to let them know they should anticipate additional housing units.

Princeton continues to be a leader when it comes to affordable housing, and we have demonstrated how it can be built in a way that benefits the larger community and successfully adds to our diversity. The Council and Planning Board are committed to putting together a plan that to best of our abilities reflects good planning principles.