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New Jersey Releases Fourth Round Affordable Housing Calculations; Identifies Present and Future Need for 150,000 New Units Throughout State

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October 21, 2024

What You Need to Know

- The Department of Community Affairs (DCA) has released its “fourth round” affordable housing calculations for the coming decade, 2025 to 2035.
- The DCA has identified the need for approximately 150,000 new low- and moderate-income housing units to accommodate both current and projected affordable housing needs throughout the state.
- Property owners or developers interested in residential development should consider this the optimal time to evaluate whether the fourth round of affordable housing compliance can provide opportunities to obtain the necessary local entitlements.

As required by legislation adopted earlier this year, which formally abolished the Council on Affordable Housing (COAH), the New Jersey Department of Community Affairs (DCA) has released its highly anticipated calculations of each of New Jersey’s 564 municipality’s affordable housing obligations for the “fourth round” of affordable housing compliance, which is scheduled to begin in 2025. As outlined in this prior Client Alert, the DCA was required to release these calculations utilizing the methodology established by Judge Jacobson in her landmark 2018 “third round” bench trial decision.

The DCA’s calculations identify a current deficit of 65,410 low- and moderate-income units and project the need for an additional 84,410 low- and moderate-income units during the ten-year period comprising the

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Published Articles (Cont.)

fourth round. Because of the need to subsidize affordable housing units through the construction of market-rate housing, most of these units will need to be developed as “inclusionary units” of an overall mixed-income development wherein roughly 80-90% of the units will not be restricted as affordable housing units. After allowing for various bonus credits permissible under the law, if all remaining units identified by the DCA end up being developed, this would likely result in the development of hundreds of thousands of new dwelling units.

Under the affordable housing law, all New Jersey municipalities are now required to adopt a resolution determining present and prospective housing needs by no later than January 31, 2025. Municipalities must then publish a copy of this resolution on their website within 48 hours of adoption. Given the calculations performed by the DCA, deviating from those calculations could make a municipality susceptible to challenge. Challenges to a municipality’s determination must be filed to the newly created Dispute Resolution Program by February 28, 2025.

Once housing needs are established, municipalities must then adopt their housing element and fair share plans demonstrating how they intend to provide realistic opportunities for the number of affordable housing units needed no later than June 30, 2025. Interested parties, including property owners and developers seeking to have their property or project included in a municipality’s housing element and fair share plan, would have until August 31, 2025, to file a challenge to the Dispute Resolution Program.

Property owners or developers interested in residential development should consider this the optimal time to evaluate whether the upcoming fourth round of affordable housing compliance can provide opportunities to obtain the necessary local entitlements. While affordable housing development often requires subsidization through the development of market-rate housing, it is also often eligible for other economic incentives. These include payment-in-lieu-of-taxes (PILOT) agreements from the municipality under the Long-Term Tax Exemption Law, as well as federal tax credits under the Low-Income Housing Tax Credit program (LIHTC) and state tax credits under New Jersey’s Aspire tax credit program.

The firm’s redevelopment team is experienced at navigating New Jersey’s complicated affordable housing laws and regulations, and in negotiating and litigating with municipalities in builders’ remedy and other affordable housing challenges. Please contact the author of this Alert with questions or to discuss whether your project is eligible for the above-referenced incentives.

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