

NEW JERSEY AFTER COAH

By Lori Grifa, Commissioner, N.J. Department of Community Affairs

On June 29, 2011, Governor Christie issued Reorganization Plan No. 001-2011 which, among other things, abolished the Council on Affordable Housing (COAH). The Reorganization Plan also was designed to reduce the “unnecessary complexity of affordable housing administration in New Jersey, lower the administrative cost associated with the current regulatory process and streamline the development of new housing projects.” Recognizing that the N.J. Department of Community Affairs (DCA) was already responsible for providing assistance to municipalities, and operating numerous affordable housing programs, the Plan also acknowledged that the performance of these obligations can be significantly improved and streamlined by consolidating the statutory functions, powers and duties previously conferred upon COAH with those of DCA.

The Plan became effective on August 29, 2011, in accordance with the provisions of the Executive Reorganization Act of 1969, P.L. 1969, c. 203 (C. 52:14C-1 *et seq.*). As a result, the Governor’s Reorganization Plan transferred all functions, powers and duties assigned to COAH in the Fair Housing Act to the Office of the Commissioner of the DCA.

Upon the effective date, the DCA immediately began to reduce the unnecessary bureaucracy that was COAH’s hallmark by implementing interim procedures designed to create predictability and consistency for municipalities, developers and housing advocates. These interim procedures, as set forth below, will curb inefficiencies which resulted in unreasonable delays and costs to municipalities and the private sector while promoting the availability of affordable housing throughout the State. In keeping with the Reorganization Plan, DCA will provide local planning and housing support services to assist municipalities with local planning issues and in the administration and implementation of the Fair Housing Act. As the DCA continues to take action to increase flexibility and efficiency to foster compliance with the Fair Housing Act, it will move towards greater transparency by posting notices of these actions on the DCA webpage at www.nj.gov/dca/services/lps.

So far, the DCA has implemented interim streamlined protocols regarding the following: review of requests for agency action, waivers and motion requests (including public noticing procedures); review and approval of municipal spending plans; review and approval of municipal development fee ordinances; approval of administrative agents and municipal housing liaisons; and approval of affordable housing operating manuals.

Waiver Requests

Municipalities may submit any requests for waivers of regulations in order to expedite the production of housing affordable to low- and moderate-income households. The new waiver process will permit waiver requests as well as requests for determinations

on issues other than a waiver of regulations (motions) to be made electronically, by letter. Noticing requirements are streamlined via postings on DCA and municipal websites. Comments on the request will be accepted for two weeks (ten business days) of the posting. The request and any comments received will then be reviewed and the parties notified of any relief granted.

Review and Approval of Development Fee Ordinances and Amendments

To expedite the review and approval of development fee ordinances and amendments, municipal resolutions requesting review and approval of development fee ordinances or amendments will no longer be required. To streamline the process, a model development fee ordinance is available on the DCA website. Ordinances submitted to DCA will be reviewed and the municipality will be notified whether the development fee ordinance or amendment has been approved.

Administrative Agents and Municipal Housing Liaisons

Municipalities will now be permitted to designate or appoint Administrative Agents (AA), Municipal Housing Liaisons (MHL) and RCA Administrators without State approval. Municipalities need only notify DCA of any new appointments or designations. DCA will continue to provide ongoing support, education and training to designated appointees.

Affordable Housing Operating Manuals

Municipalities will no longer be required to receive approval of affordable housing operating manuals. Revisable model operating manuals are available for download on the DCA webpage at www.nj.gov/dca/services/lps and need only be submitted to DCA. The Department will assist in the creation of operating manuals if requested.

Spending Plans and Amendments

A municipal resolution requesting review and approval of Spending Plans or Spending Plan amendments will no longer be required. Municipalities may now simply submit a letter (in hard copy or in an electronic format) making such a request. The submitted plan will be reviewed expeditiously and the municipality will be notified whether the spending plan or amendment has been approved. A spending plan model is posted on the agency website to assist municipalities in drafting their spending plans.

Going Forward

The DCA will also offer planning services in order to foster cost-effective strategies and solutions for the land use and administrative goals of local governments. As part of a comprehensive strategy, this planning assistance will include incorporating the goals of the Fair Housing Act into the pursuit of economic development and strategic planning initiatives while focusing on flexibility and efficiency.

The local planning services to be offered by DCA will include both general planning and housing support. The general planning services are available to communities to develop cost-effective strategies and solutions for the successful achievement of local land use and strategic planning goals. The Department will make multi-disciplinary, professional staff available at no cost to local government entities. Housing support services to be offered will assist municipalities with implementing the Municipal Land Use Law, Fair Housing Act and applicable laws.

This new beginning will present new challenges and opportunities. As State and local governments move forward, municipalities that previously submitted Housing Elements and housing plans for substantive certification should continue to comply with the requirements of the Fair Housing Act and applicable laws in order to continue to be protected from builder's remedy litigation.