

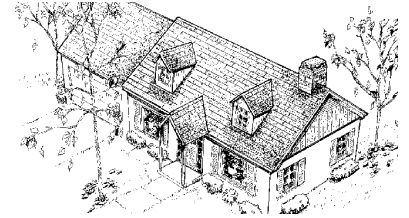


# A Professional Perspective

A publication of  
Affordable Housing Professionals of New Jersey

Volume 5, Issue 2

Spring 2012



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**AHPNJ is an independent organization whose mission is to promote and enhance professionalism and knowledge in the field by supporting affordable housing through dialogue, ethical standards, education, advocacy and policy guidance.**

## How Affordable Housing Can Reboot a Local Community By Christiana Foglio

*Reprinted from NJSLOM Magazine*

For many years, the Council on Affordable Housing's (COAH) regulations have been like the "tail wagging the dog," in terms of New Jersey's approach to providing affordable housing options to families statewide. Even a staunch affordable housing advocate and a former chairperson of COAH, like myself, must admit the rules just do not make sense anymore.

Currently, municipalities find themselves reacting to COAH rather than the actual, present-day, low-to-moderate income, housing needs of all residents, from young adults and families to seniors, throughout the state. The timing is right for the New Jersey Legislature to take a new look at this critical issue, without creating further divides along the lines of race and economic advantage. Unfortunately, these issues historically dominated too much of the COAH debate.

Like many states, New Jersey has gained first-hand experience in the residential housing market rollercoaster ride. For years, housing values kept climbing, only to drop off rapidly when the market fell. In addition to impacting the American dream of home ownership, the housing crash changed the debate of what is affordable and who should benefit from affordable housing policy.

The historic context of giving teachers, firefighters and municipal employees an opportunity to live in the towns where they work, (as articulated in the early

Mount Laurel decisions), still rings true as a basic goal of New Jersey housing policy. Moreover, the belief that exclusionary zoning is bad for neighborhoods and for New Jersey has been proven. Many municipalities can attest to the value of affordable housing developments, both in terms of filling a need and positively impacting property values in surrounding neighborhoods.

### **What to do in a time of COAH limbo?**

Many municipalities are subscribing to the "do-nothing" philosophy, until a rule or lawsuit requires action. This is a mistake. Now is the best time to look at your community's housing needs and what the municipality can gain by meeting these needs. Consider the following questions: Does the downturn and large number of foreclosures present new ways to stabilize a community and offer affordable housing options? Is the downtown commercial district suffering? If so, could a senior project, specifically an affordable senior development, put people on the street with disposable dollars to support the local coffee shop, dry cleaner and hairdresser? Can affordable housing actually be viewed as an economic development tool?

The answer to all of these questions is "Yes!" You can use affordable housing as a tool to solve problems

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**From the President by Randall Gottesman, P.P.****Let's turn a stressful, bad situation into something great...**

The July 17, 2012 deadline to commit \$167 million (as of May 4) in municipal affordable housing trust fund money is fast approaching. Any funds that are not committed by this deadline will be recaptured by the State and used for a variety of other purposes. The loss of any of this critical funding for affordable housing will have devastating impacts on the low- and moderate-income households in the state, and it will saddle municipalities with continuing affordable housing obligations, without the availability of trust funds to help actualize their plans.

That is the bad news. The good news is that municipalities statewide are hard at work to commit the funds for valuable projects that will make differences in many low- and moderate-income families' lives. It is quite impressive to see towns pulling together terrific teams of motivated locally elected officials, administrators, their attorneys, planners, municipal housing liaisons, administrative agents, housing rehabilitation administrators, clerks, purchasing agents, community development officials and more, to commit the funds.

While one can easily choose to pine that it is a shame that this is being done with a "gun to the heads" of local officials by the anticipated "taking" of any unexpended/uncommitted funds by July 17, I am choosing to focus on the positives: there are, once again, some decisions being made that will result in affordable housing units being built where otherwise progress would have languished. This can be looked at in two ways: First, it can be argued that things are accelerating only due to the deadline, and leave it at that; but an equally valid statement is that this deadline has been the only "real" affordable housing deadline/event that is not mired in litigation and uncertainty.

Therefore, it is only natural that progress languished all of these years, since there was insufficient direction for many municipalities to be willing to expend dollars.

Frankly I don't care which way one looks at it. The outcome is the same: Many towns have decided to recognize the deadlines and parameters that they've been given to work with, and are doing their very best to spend each dollar wisely both in terms of meeting the needs of as many low- and moderate-income households as possible, and doing so in a way that is smart, sound planning for their municipality. My hat is off to each and every one of them, and it is always a honor to be a part of these important decisions.

I look forward to a time where there are fairer, clearer, and more workable guidelines and the affordable housing industry can do what it does best: build, rehabilitate, manage, and administer affordable housing. So while it is wonderful to daydream about what could be, we need to act today, be sharp, be creative, and do the very most each of us can to provide and promote affordable housing. Between now and July 17, that means committing those funds to meaningful affordable housing programs and projects. This can be through rehabilitation, group home creation, acquisitions during this suppressed buyer's market, 100% affordable housing projects, affordability assistance, and so much more.

Let's hope we all look back and say that some wonderful things began happening again for affordable housing during the Spring and Summer of 2012 as millions of dollars got committed to projects that will be breaking ground all over the state. This is not a dream, but a course upon which many of our municipalities are headed.

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### By Edwin W. Schmierer

Mason, Griffin & Pierson, P.C. is pleased to be a sponsor of Affordable Housing Professional of New Jersey ("AHPNJ").

Mason, Griffin & Pierson, P.C. is a Princeton based law firm founded in 1955. The firm has been involved with affordable housing since the creation of one of the firm clients, Township of Princeton, Affordable Housing Program in November 1984. At that time the firm drafted an affordable housing compliance program satisfying the challenges set forth under the Mount Laurel Doctrine.

Since that time, the firm has worked with a number of non-profits (i.e., Bedminster Hills Housing Corporation) and twenty-eight (28) other

municipalities as their General/Special Counsel for affordable housing. The firm, through the New Jersey State League of Municipalities, where it serves as Associate Counsel, worked towards the im-

plementation of the New Jersey Fair Housing Act of 1985. Through its involvement with the League, it has participated in several matters before the New Jersey Supreme Court involving affordable housing development fees and other affordable housing compliance techniques.

Edwin W. Schmierer, Esq., a Director with the firm, is currently a member of the Board of Directors of AHPNJ and has participated in several of the AHPNJ seminars to keep those working in the area of affordable housing abreast of the ever changing legal landscape involving the delivery and compliance with New Jersey affordable housing requirements.

For more information about Mason, Griffin & Pierson, P.C. visit [www.mgplaw.com](http://www.mgplaw.com)



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We have once again been awarded as a Constant Contact Email Marketing All Star for 2011.

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For membership information see our website [www.AHPNJ.org](http://www.AHPNJ.org)

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## From the Executive Director by Barbara Walsh PP/AICP

### Forty Years After the Mt. Laurel Decision

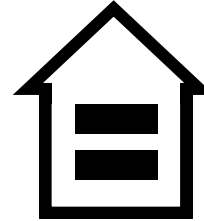
Forty years ago, a New Jersey Superior Court handed down a historic decision that changed the discourse about affordable housing in New Jersey. On May 1, 1972, the court released its decision in Southern Burlington County NAACP v. Township of Mount Laurel, finding that the town's zoning ordinance, which effectively deprived the poor of adequate housing and discriminated against them, was constitutionally invalid.

To celebrate this event, as it did for the 25<sup>th</sup> anniversary of the Mt. Laurel decision, the Woodrow Wilson School at Princeton University hosted a policy forum on the effect of affordable housing.

The discussion introduced new research, based on the experience of the Ethel R. Lawrence Homes, a 140-unit, 100% affordable family rental project developed in Mount Laurel, NJ, developed and managed by the Fair Share Housing Center, that demonstrates that *many of the fears of the ill-effects of affordable housing are unfounded.*

Find out more through these links:

- The research presented by Doug Massey and his colleagues, based on the experience of Ethel R. Lawrence Homes, is summarized



in the attached [Poverty and Race Research Action Council](#) newsletter (pages 7-8). URLs of the papers produced thus far are cited in this publication.

(<http://bit.ly/KVcONR>)<sup>1</sup>

- Slides and a video from the presentation can be found under April 26<sup>th</sup>, 2012 "Forty Years After the Mount Laurel Decision" on the page <http://www.princeton.edu/webmedia/>. (The powerpoint slide presentation is right below the video)
- A link to a recent Q and A's that Doug Massey did with the Star Ledger about this body of work can be found at (<http://bit.ly/MagH6v>)<sup>2</sup>
- In the same edition on April 22, 2012, the Star Ledger published a Mount Laurel story, "Mount Laurel affordable housing decision made dreams come true". (<http://bit.ly/Jkxsf2>)<sup>3</sup>

This study and stories about the families who move into affordable housing will help you communicate the value of affordable housing. So reach out to your clients and ask them to share their stories. Help us tell their stories. Send in a Consumer Survey ([http://www.ahpnj.org/private/ahpnj\\_survey.pdf](http://www.ahpnj.org/private/ahpnj_survey.pdf))

1. <http://library.constantcontact.com/download/get/file/1103671705375-214/Lessons+from+Mount+Laurel-PRAC.pdf>  
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## How to Craft an Abandoned Property Ordinance that Works

By Michael Melfi, Deputy Mayor and Joseph C. Zisa Jr., City Attorney, Hackensack N.J.

*Reprinted from NJSLOM Magazine*

When I was elected to the Hackensack City Council in 2005, I came up with the idea of introducing an Abandoned Property Rehabilitation Ordinance that would give municipalities the tools to deal with dilapidated and unused properties. The Council sought to enact this ordinance in an effort to eliminate blight and to increase the aesthetic and economic value of all properties within the city.

Although state statutes only require an ordinance to give the municipality's public officer the power to create an Abandoned Property List, we decided to enact all of the statutes relating to the municipal powers to rehabilitate these properties as part of the ordinance. All of the steps of the process were thus organized and consolidated for the city administration in one place, and interested residents and property owners can view it on the city website. Ordinance No. 36-2005 established and adopted the New Jersey Abandoned Property Rehabilitation Act in 2006. Hackensack was the first municipality in the state to enact such a law.

The ordinance and statutes permit the city, through its Public Officer, to establish an Abandoned Property List, and to file a "Notice of Determination" for each property on the list

which then encumbers the property and, it is hoped, will prompt the owner to take action. The Public Officer's "Notice of Determination" attaches to the county's property record for each property on the list. The notice stays on file until the property is rehabilitated. The city notifies the owners that unless they rehabilitate their properties, the city will have no alternative but to proceed with its own plan to have the properties rehabilitated at the owner's expense.

The statutes and ordinance define an abandoned property as one that the Public Officer determines has not been inhabited for at least six months and also meets one of the following criteria (a property that is used on a seasonal basis must meet **two** of the criteria).

- 1) The property is in need of rehabilitation and no rehabilitation has taken place during that six-month period.
- 2) Construction was initiated on the property and was discontinued prior to completion, leaving the building unsuitable for occupancy, and no construction has taken place for at least six months.
- 3) At least one installment of property tax remains unpaid and delinquent on that property.
- 4) The property has been determined to be a nuisance.

A property is considered a nuisance if:

- 1) it has been found to be unfit for human habitation, occupancy or use or;
- 2) the condition and vacancy of the property materially increases the risk of fire to the property and adjacent properties; or
- 3) the property is not properly secured by the owner leading to potential health and safety hazards; or
- 4) the presence of vermin, debris, uncut vegetation or deterioration creates potential health or safety hazards; or
- 5) the dilapidated condition of the property materially and negatively affects the welfare, including the economic welfare, of the residents of the area in close proximity to the property.

A property that has been unoccupied for six months and otherwise meets these criteria is not considered abandoned for these purposes if someone other than the municipality holds a tax sale certificate on the property, has been paying taxes on it, and is pursuing foreclosure.

For those properties that do qualify as abandoned under the law and are placed on the city's Abandoned Property List, the city has the authority to repair, demolish or develop them or to

*Continued on page 7*

## 2012 AFFORDABLE HOUSING UPDATES



### Jackie Zelinka, Retiring Rutgers Education Program Liaison Recognized

On April 18, 2012, AHPNJ sponsored a program providing affordable housing updates. Edwin Schmierer, Esq. of Mason, Griffin & Pierson, P.C., Mary Beth Loneragan, AICP, PP of Clarke Caton Hintz, and Sharon Clark, Executive Director of Central Jersey Housing Resource Center, provided practical, understandable tips on Affordable Housing Trust Funds. Frank Piazza, President of Piazza & Associates, Inc., AHPNJ Past President, updated us on the status of FHA Loans and affordable restrictions and Susan Ucci, Community Development Program Director for the City of Elizabeth, outlined HOME Program Changes. The attendance at this program was overwhelming and we thank not only our speakers, but the Township of South Brunswick for hosting our event, and the program sponsors: Capital One Bank Home Loans; Mason, Griffin & Pierson, P.C.; and Peapack Gladstone Bank. Sharon Clark, AHPNJ Program Chair, pulled this all together with the help of Laura Lieb, Laura Wetzel,



*AHPNJ presented to Jackie Zelinka, Assistant Director for Client Services at the Rutgers Center for Government Services, a Certificate of Appreciation for her years of contribution to assisting AHPNJ to develop its accreditation program, as well as assisting to create the COAH courses. Jackie will be retiring June 1<sup>st</sup> and we will miss her leadership and guidance.*

Dollie DellaVentura, Judy Pelesko, Charisty Peacock, Randy Gottesman, AHPNJ President, Arlyne DeSena and Adam Gordon.

**One of the most valuable tips, amongst the many provided,** was that before COAH (not DCA) takes a municipality's funds in its Affordable Housing Trust Fund, it must provide written notice and an opportunity for a hearing pursuant to the Three-party Agreement entered into between the Bank,

Municipality and COAH when the affordable housing trust fund was established. It was suggested that you find and pull out that three-party agreement with COAH. Most agreements stipulate that COAH shall notify the municipality in writing and provide an opportunity for a hearing before COAH can transfer funds from the account. If a municipality gets such a letter, the municipality should write back and request a hearing and notify the bank *not* to transfer dollars until you get the hearing. *Please consult with your attorney regarding these matters.*

**Susan Ucci outlined the most significant proposed changes to the HOME Program, three mentioned are:**

- Projects not completed within four years from the date of project commitment would be considered terminated and the jurisdiction must repay HOME funds invested in the project;
- Repayment of HOME funds would be required for any unit that is not rented to eligible tenants within 18 months of project completion;
- Homebuyer units that are not sold within 6 months of completion of rehabilitation or construction would be required to be converted to rental projects.

**Capital One Bank Home Loans  
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## Effective Abandoned Property Ordinance...

*Continued from page 5*

hire a rehabilitation entity to do the work. When the work is completed, the city can sell the property and reimburse the owner after deducting all costs for rehabilitation. The city can also apply to the Superior Court to take these properties under eminent domain if necessary.

The city removes items from the list when owners demonstrate that the property is not "abandoned" as defined by the city's ordinance or when owners take sufficient steps towards rehabilitation of the property. Offending property owners can appeal the city's determination. Once the initial appeals are exhausted, the city may commence lawsuits against the

owners and take the next steps in accordance with law. The city files its lawsuits in order of severity, but first makes every effort to achieve its goals without court action.

After final passage of the ordinance in 2006, our administration made a strong effort to let the owners of abandoned properties know that the city was serious and would use all legal remedies to ensure that these properties were rehabilitated, preferably by the owners. Allowances are made for hardships. The city seeks to prevent blight by having the owners rehabilitate these properties. The administration prefers not to manage these properties itself, but rather views such action as a last resort when owners cannot be convinced to comply.

The ordinance is implemented through the head of the Building

and Land Use Department, the City Attorney, and the City Manager. Since the ordinance was passed, dilapidated structures have been demolished, properties have been sold to investors, and homes and structures have been voluntarily rehabilitated.

Communication with and motivation of financially-strapped owners has been a challenge. Furthermore, because of limited funding, the city must consider carefully which properties to pursue actively. However, despite these issues, the tools available to Hackensack under the Abandoned Property Rehabilitation Act and our ordinance have been successful in dealing with the issue of abandoned properties and the attendant health, safety, and economic problems that accompany them.



The law offices of Ehrlich, Petriello, Gudin & Plaza is a full service firm headquartered in Newark, New Jersey. We have represented owners, managers and developers for over 40 years in all aspects of real estate matters including:

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We invite you to call Bruce E. Gudin, Esq. at 973-643-0040 Ext.104 to discuss your next matter. Visit our website at [www.epgp-law.com](http://www.epgp-law.com).



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## A H Can Reboot a Community...

### *Continued from cover page*

and improve the community for all residents.

Consider the example of Bentley Woods in Glassboro. An older, privately owned rental community, Bentley Woods was extremely outdated and long past its prime. It provided affordable housing to 80 families in Glassboro. Under the COAH rules, the city did not receive any credit for these units since they were built prior to 1980. Moreover, the property was mismanaged and became a hub for criminal activity. The units were in considerable disrepair, and the tenants were exhausted by a lack of landlord response to their health and safety concerns.

In a bold move, Glassboro officials

decided to reposition this property, through the Fair Housing Act, and considered exercising eminent domain. Through the use of their developer fee funds and the 9 percent tax credit program, the town's development partner, Community Investment Strategies (CIS), Inc., was able to finance, develop, construct and provide management services as part of a comprehensive redevelopment program. Now known as Whitney Crescent, the new development was designed using defensible space principles, which eliminated common hallways and corridors to create a livable, vibrant community. Strong management policies are now in place and residents can raise their children in a

safe environment. By establishing an aggressive housing strategy focused on broad community needs, Glassboro officials transformed a blighted, obsolete complex into a beautiful new townhouse rental community, while preserving the Section 8 contracts and securing COAH credits.

With or without COAH, current economic conditions present opportunities for New Jersey's municipalities to address aging housing stock, blighted neighborhoods and foreclosed residential housing. Affordable housing policy can be an effective catalyst for economic growth. The impact of affordable housing is not income specific – it has been proven to enhance the lifestyle of one and all.

**Christiana Foglio**— Founder/Owner and CEO, Community Investment Strategies, Inc. Ms. Foglio spearheads and oversees all of Community Investment Strategies, Inc.'s fully integrated real estate activities related to multi-family housing, mixed-use redevelopments and market-rate and affordable housing. With more than 25 years experience in the private and public sectors, she specializes in commercial real estate developments and low-to-moderate housing initiatives.

### A publication of the Affordable Housing Professionals of New Jersey

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### Our next program is on June 20, 2012 on “Affordable Housing & Refinancing” in Bridgewater.

Central Regional Meeting of the  
Affordable Housing Professionals of NJ

### “Affordable Housing & Refinancing”

- Sharing of Updates in Affordable Housing (Trust Funds, FHA Financing Issues & Legislation)
- Refinancing Process for a Low/Moderate Affordable Housing (Single Family Units)
- Subordinations & Legal Documents for File



DATE: **Wednesday, June 20, 2012**

PLACE: **New Garden's Pancakes & Grill (formerly IHOP)**

793 Route 202 North, Bridgewater NJ 08807

To attend, return the flyer for the event posted on the AHPNJ website [www.ahpnj.org](http://www.ahpnj.org) or [download it here](#). **WE HOPE TO SEE YOU THERE!**