

A history of the N.J. Supreme Court Mount Laurel Decisions, including the enactment of the Fair Housing Act (FHA), the establishment of the Council on Affordable Housing (COAH), the lawsuit involving Fair Share Housing Center (FSHC), and how this all relates to all townships and municipalities in New Jersey.

- 1975 - The N.J. Supreme Court decided “Mount Laurel I,” prohibiting exclusionary zoning, which requires communities to provide affordable housing to all economic strata, including low and moderate income, and you can’t use zoning to restrict affordable housing.
- 1983 - The Court issued its ruling in Mount Laurel II after several years of inaction and non-compliance. In the absence of legislation promoting affordable housing the Court created a judicial fix and allowed “builders to come in and file ‘Builder’s Remedy lawsuits.” These suits can force towns to permit high density developments to enable towns to achieve their affordable housing numbers in conformance with the Mount Laurel decision.
- 1985 - The legislature enacted the FHA, which was upheld by the State Supreme Court in Mount Laurel III. The FHA created COAH to assign the municipalities numbers and to identify techniques municipalities could use to comply with affordable housing obligations.
- 1987 - COAH adopted Round 1 regulations.
- 1994 - COAH adopted Round 2 regulations.
- 1999 - Round 3 regulations were not adopted, as scheduled.
- 2004 - Round 3 regulations were proposed by COAH, but challenged.
- 2007 - Appellate Division invalidated COAH’s Round 3 regulations, finding they were too much like the old ones and told COAH to create new ones.
- 2010 - The court rejected COAH’s second set of Round 3 rules.
- 2014 - NJ Supreme Court issued an Order telling COAH to issue new regulations. In October, COAH had a deadlocked vote and failed to adopt the regulations.
- 2015 - In March, the Supreme Court issued Mount Laurel IV and directed trial courts across the state to assume jurisdiction over the management of the affordable housing process.

Each municipality has to go to its assigned court and prove they have plans in place to comply with the requirement to build low and moderate income housing. When they appear in court with their plans, they can ask for immunity from Builder’s Remedy Lawsuits, until the final plan is approved.

The design is that you build regular units and, embedded in those projects, are affordable units. They are your neighbors and you would never know other than by virtue of an income level, that you're qualifying to be in one of the affordable housing units.

- In the meantime, legal motions have been filed related to the Gap Period, from 1999 to 2015, when there were no rules establishing how many affordable housing units needed to be built.

Builders and FSHC, an NGO created to promote the construction of affordable housing throughout the state, retained experts to establish how many units needed to be built in each town, said the Gap period had to be accounted for, while municipalities said it didn't.

- At the trial level, the ruling was Gap years needed to be included.
- In July 2016 the Appellate Division reversed the decision. The FSHC immediately appealed to the Supreme Court, and received a stay of the Appellate Division's decision.

A few things you need to understand about Affordable Housing in NJ.

- 1 This isn't optional - it's mandatory - every town has to do it. If a township doesn't file a plan and build, they will be "hit hard by the court."
- 2 Affordable Housing does not mean slums. These units are to be fully integrated into their respective developments and the people who occupy them could be new policemen or teachers or any other hardworking people.
- 3 All projects must meet Township's design standards, provide ample parking and off-site improvements such as a traffic lights. None of this would have been possible without the Court-ordered mediation and negotiated settlement.