



Affordable housing advocates take a blow

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9:59 p.m. EDT July 11, 2016



Buying a home is a rite of passage in America, one that 90% of us will make at some point in our lives, according to estimates from Freddie Mac. In recent years, a lot of Americans bought homes that were simply too expensive, and many people still fe



(Photo: ~File)

A New Jersey appellate court, in a blow to affordable-housing advocates, has overturned a judge's ruling in Ocean County obligating municipalities to accommodate potentially thousands more such units than they already are required to see built.

The court threw out a lower-court ruling requiring towns to meet a backlog of affordable-housing needs accumulated between 1999 and 2015 — a span known as the "gap period," when

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oversight of affordable-housing efforts was unsettled.

The decision was cheered by municipal officials throughout the state who are in the process of determining just how many low- and moderate-income housing units they must accommodate. Town representatives said the ruling will likely reduce affordable-housing quotas and set precedent for communities across the state.

"This is a common-sense ruling," said Michael Cerra, assistant executive director of the New Jersey State League of Municipalities. "It's kind of like a puzzle that needs to be put together, and now it's clear that this piece doesn't fit in this puzzle. Now we can determine the reasonable, achievable number."

But municipalities are not entirely off the hook.

Though the ruling says towns are not required to retroactively account for "separate and discrete" housing obligations for the 16-year gap period, it acknowledges that some of the pent-up need from the period still exists. Towns will address such shortfalls through their present and prospective affordable-housing plans, even without a specific quota stemming from the gap period.

"Our holding today does not ignore housing needs that arose in the gap period or a municipality's obligation to otherwise satisfy its constitutional fair share obligation," the ruling read.

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Kevin Walsh, executive director of the Fair Share Housing Center, a nonprofit advocating for affordable housing that was involved in the appeal, said the appellate decision would only delay help for low- and moderate-income families "who have waited years for homes in safe communities with access to good schools and employment opportunities."

"This plays into the hands of wealthy towns that are seeking to delay and exclude because it requires further studies at a time when the needs of New Jersey working families, seniors and people with disabilities are so great," he added.

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It's not clear whether the Fair Share Housing Center will appeal the ruling to the state Supreme Court.

Housing numbers to be decided

Addressing the gap period was a key issue in the long, convoluted battle among towns, developers and affordable-housing advocates to determine low- and

moderate-income housing quotas for local governments and how to meet those benchmarks.

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The state's Council on Affordable Housing in New Jersey was created under the Fair Housing Act in 1985 and tasked with determining each town's affordable housing obligation and reviewing plans to meet those aims. The process stopped in 1999, when COAH twice failed to agree on a third round of quotas and rules.

Now, 15 state Superior Court judges are in the process of reviewing towns' plans after the state Supreme Court intervened last March and relegated the issue to the lower courts.

Superior Court Judge Mark Troncone, sitting in Ocean County, ruled earlier this year that towns had to meet prior and future affordable-housing needs as well as account for the gap period — when the state's process for setting town quotas and rules sputtered and stopped. Barnegat appealed the decision; supporting parties said calculating a separate obligation for the gap period were not realistic.

"There's plenty of obligation without the gap (period)," said Jeffrey Surenian, the attorney representing Barnegat.

The Fair Share Housing Center estimated the Garden State needs to provide more than 200,000 low- and moderate-income housing units. That includes needs built up during the gap period. The nonprofit says about 40 percent of New Jersey residents qualify for affordable housing.

"The sky will not fall, poor people will not be hurt if we have numbers that come back to reality," added Surenian. "I commend the courts, they got it right."

In its new decision, the court's Appellate Division said that the Fair Housing Act does not require towns to meet a separate gap-period obligation and that such a requirement was "erroneously imposed" by the Ocean County judge. Towns are only required to meet prior needs assigned by COAH up to 1999, fix deteriorating affordable-housing units and accommodate future housing needs for the next 10 years.

"The Supreme Court has cautioned the courts not to become a replacement agency for COAH in promulgating substantive rules," the opinion read.

"Our families, friends and neighbors who might not be counted because of this ruling are the heart of our state and the backbone of our economy," said Staci Berger, president of the Housing and Community Development Network of New Jersey, an association of organizations that support affordable homes. "If we can't afford to live here, we can't get our economy back on track. We need to build more homes more

people can afford, so we can all call New Jersey home."

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