

**TOWNSHIP OF FRANKLIN
COUNTY OF GLOUCESTER**

**RESOLUTION OF THE GOVERNING BODY OF THE TOWNSHIP
OF FRANKLIN URGING THE NEW JERSEY COUNCIL ON
AFFORDABLE HOUSING TO PROMULGATE REGULATIONS IN
ACCORDANCE WITH THE SCHEDULE THE NEW JERSEY
SUPREME COURT ESTABLISHED ON MARCH 14, 2014
R-71-14**

WHEREAS, in 1983, the New Jersey Supreme Court decided Southern Burlington County N.A.A.C.P. v. Tp. of Mount Laurel, 92 N.J. 158 (1983) (“Mount Laurel II”) in which it not only created a body of procedural and substantive law to advance the creation of affordable housing, but also clearly announced its desire for a legislative alternative to the laws it created; and

WHEREAS, Former Governor Kean and the Legislature accepted the Supreme Court’s invitation and enacted the New Jersey Fair Housing Act (“FHA”) in 1985; and

WHEREAS, the FHA created the New Jersey Council on Affordable Housing (“COAH”) and charged COAH with the responsibility of periodically establishing regulations to provide guidance to municipalities and other interested parties; and

WHEREAS, COAH promulgated regulations for the first housing cycle in 1986; for the second housing cycle in 1994 and for the third housing cycle in 2004 and again in 2008; and

WHEREAS, on September 26, 2013, the New Jersey Supreme Court decided In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing, 215 N.J. 578 (2013) in which it (a) invalidated the round three regulations adopted in 2008; and (b) charged COAH with the responsibility of adopting a third iteration of round three regulations within five months; and

WHEREAS, COAH failed to meet the five month deadline, but applied to the Supreme Court for an extension of that deadline; and

WHEREAS, on March 14, 2014, the Supreme Court granted COAH’s application for an extension, but established the following deadlines for COAH to follow to adopt new round three regulations:

1. By May 1, 2014, the COAH Board must meet and formally approve proposed new Round 3 rules in accordance with the Supreme Court's September 26, 2013 opinion. These new rules should provide the "fair share" numbers for all towns in New Jersey.
2. COAH must forward the proposed new rules to the Office of Administrative Law (OAL) for publication in the June 2, 2014 New Jersey Register.
3. COAH must permit comments on the proposed new regulations until August 1, 2014.
4. By October 22, 2014, COAH must adopt the new rules.
5. COAH must transmit the adopted new rules to the OAL for publication in the New Jersey Register no later than November 17, 2014.

WHEREAS, pursuant to this March 14, 2014 Order, the Supreme Court stated that if COAH fails to abide these deadlines, it would consider applications for relief that may include exposing municipalities to builder's remedy lawsuits on a case-by-case basis; and

WHEREAS, the Supreme Court suggested that municipalities could pay the price for COAH's failure to do its job in a timely fashion apparently because the Court viewed municipalities as somehow responsible for COAH's delays; and

WHEREAS, the Township wishes to extinguish any perception that it has directly or indirectly supported the delays by COAH to meet the deadlines the Court has established; and

WHEREAS, to the contrary, the Township wishes to make it absolutely clear that it urges COAH to meet the deadlines the Court has established.

NOW THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE TOWNSHIP OF FRANKLIN as follows:

1. The Township strenuously urges COAH to comply with the deadlines the Supreme Court established in its March 14, 2014 decision with respect to the adoption of proposed regulations and the handling of comments with respect thereto.
2. If new Mount Laurel legislation is not enacted by the October 22, 2014 deadline the Supreme Court has established as the deadline for COAH to adopt new round three regulations, the Township further urges COAH to formally adopt its new Round 3 regulations by this deadline in order to avoid the Supreme Court's consideration of a remedy that may include authorization to file builder's remedy lawsuits.
3. This resolution shall be submitted to the New Jersey Council on Affordable Housing immediately.

Attest:

Township of Franklin

Barbara Freijomil, Clerk

Edward Leopardi, Mayor

CERTIFICATION

I, Barbara Freijomil, Clerk of the Township of Franklin, do hereby certify that the foregoing Resolution was presented and duly adopted by the Township Committee at a meeting held on Tuesday, April 22, 2014.

Barbara Freijomil, Clerk