

State official says municipal efforts to extend COAH deadline are pointless

COURIER NEWS

Sunday November 10, 2008

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The mayors of Bernards and Clinton townships plan to write to Gov. Jon Corzine and ask him to give all municipalities an extra year to come up with a state-ordered affordable housing plan — and they are encouraging residents to do the same.

But Joseph Doria, state Commissioner of Community Affairs, said the issue has been decided in court and the upcoming Dec. 31 deadline must still be met.

An attorney representing Bernards and Clinton townships, among other municipalities, said he disagrees with Doria's interpretation. Stuart Koenig said the governor can issue an executive order to direct the state Council on Affordable Housing to change its deadline.

Both townships are among the 20 municipalities involved in a joint lawsuit against COAH protesting the basis upon which the latest numbers for required affordable housing units were calculated for New Jersey towns.

Bernards Mayor John Carpenter said at an Oct. 28 township committee meeting that there are a number of other lawsuits challenging the latest COAH regulations, including a challenge by the statewide League of Municipalities.

"It's quite a food fight," Carpenter said.

A challenging effort

As a result, COAH should delay the existing Dec. 31 deadline for another year to allow the resolution of those challenges as well as additional modifications to COAH guidelines, Carpenter said on Oct. 29.

"It's worth our while to appeal to the governor's better judgment so we have an extra year, and not have it jammed through before the matter is resolved, which is what's going on right now," Carpenter said.

But Doria, whose department oversees COAH, said later on Oct. 30 that the state appellate court has ruled against motions by filed by various legal parties looking to push back the deadline for filing a plan.

"It's been litigated," Doria said in a phone interview. The court ruled on Oct. 7 against a motion to move back the deadline, meaning the issue is done, he said.

Doria said the governor can't overrule the court's decision. The issue could be revisited through state legislation, but that legislation could also be overturned in state court, the DCA commissioner said.

"The courts have said we have to get it done," Doria said of the creation of a statewide plan projecting the next 10 years of anticipated affordable housing construction.

However, Koenig contended on Monday, Nov. 3, that Corzine could still extend the deadline, despite the appellate court's order. He cited as an example the governor's recent order for COAH and the state Highlands Council to meet and work out an agreement on affordable housing numbers in Highlands communities with the strictest preservation regulations.

Doria said the court will also accept briefs from the larger parties involved in conflicting lawsuits in January, adding the state's Fair Share Housing group contends the numbers should be higher even while other lawsuits seek to lower the numbers. The parties will be allowed to comment, and the court can set a date for oral arguments after next April, he said.

Seeking review

The lawsuit involving 20 towns in Somerset, Hunterdon and nearby counties was initially spearheaded by Clinton Township. That township's mayor, Nick Corcodilos, said on Oct. 30 that he had originally suggested the mayors of the towns involved in the lawsuit petition the governor to delay the deadline.

The townships' petition for residents to sign and pass along to Corzine is posted at www.bernards.org and at www.township.clinton.nj.us.

Corcodilos said he and the other petitioners want the state to independently review the work of COAH consultants in a report that projected growth estimates for the towns that he and others dispute as inaccurate. The report contains other errors, such as misidentifying areas in each town suitable for housing developments, he said.

Since COAH just recently revised its regulations again, Corcodilos said it is "patently absurd and irresponsible" to expect towns to come up with detailed housing plans in the next few months.

Bernards Committeeman John Malay agreed. "It's very unfair for ask any community (to file a plan in two months) since COAH is still amending regulations."

Malay also said that Bernards, like Clinton Township, has not decided whether to "opt in" to following the rules set for the preservation area of the state Highlands region, another factor that might affect the final calculation of affordable housing numbers.

The township's engineer, Peter Messina, came up with a preliminary plan in September for Bernards that could fulfill a potential plan for providing 368 units. Under COAH's latest calculations, Bernards would be required to account for 368 additional housing units for low-to-moderate income residents by 2018.

However, both Carpenter and Malay said they fear that if the township can show a way to provide those units, partially through recertifying existing units as affordable housing once original agreements for those units expire in the next few years, then someday the township could be forced to carry out the plan.

"It's for a figure which most of us feel is inflated because it's based on ... fantasy ... data from COAH," Malay said.