

# The Mount Laurel Doctrine A Work in Progress

The League of Women Voters  
of Hopewell Valley

January 29, 2009





# Overview

- ◆ Mount Laurel Timeline
- ◆ The Council on Affordable Housing
- ◆ What Is “Affordable Housing”?
- ◆ COAH’s Revised Growth Share Approach
- ◆ Affordable Housing Options
- ◆ New Legislation

# Mount Laurel and Affordable Housing Timeline

The background of the slide is a photograph of a multi-story apartment building, identified as 'MOUNT LAUREL TOWERS' on its facade. The building has a modern design with large windows and a light-colored exterior. There are trees in the foreground and a street with a stop sign visible. The entire image is overlaid with a light blue grid pattern.

- ◆ 1971 - Southern Burlington County NAACP sues the Township of Mount Laurel for exclusionary zoning
- ◆ 1975 – *Mount Laurel I* – the first landmark decision on affordable housing
- ◆ 1983 - NJ Supreme Court unanimously reaffirms *Mount Laurel* doctrine
- ◆ 1985 - NJ Legislature adopts the Fair Housing Act (FHA), establishing the Council on Affordable Housing (COAH)

# Mount Laurel and Affordable Housing Timeline (cont.)

- ◆ 1986 – COAH adopts first-round rules and 1987-1993 fair share obligations
- ◆ 1994 – COAH adopts second round rules and 1987-1999 fair share obligations
- ◆ 2004 – COAH adopts third round rules for 1999-2014, based on a growth share approach
- ◆ 2007 – Portions of COAH's third round rules overturned by Appellate Court

# Mount Laurel and Affordable Housing Timeline (cont.)

- ◆ June 2, 2008 – Revised third round rules for 1999-2014 become effective
  - ◆ July 17, 2008 – Fair Housing Act amendment becomes effective
  - ◆ October 20, 2008 – COAH adopts revised rules
  - ◆ December 31, 2008 - 249 Fair Share Plans to COAH, others to Court
- 

# New Legislation (PL 2008, c.46)

- ◆ Effects sweeping affordable housing reforms and amendments to the Fair Housing Act
- ◆ Establishes a statewide 2.5% non-residential development fee
- ◆ Establishes new \$20M fund for Affordable Housing
- ◆ Eliminates Regional Contribution Agreements



# New Legislation (cont.)

- ◆ Allows planning for affordable housing opportunities based on infrastructure and transportation within 5 regions regulated by planning entities
- ◆ Requires 13% of a municipal fair share obligation, and 13% of all units funded by Balanced Housing and the statewide Affordable Housing Trust Fund, to be restricted to very-low income households (30% or less of median income)
- ◆ Establishes a State Housing Commission

# The Council on Affordable Housing

- ◆ COAH is an administrative and regulatory organization that assists municipalities in creating affordable housing opportunities
- ◆ COAH does not produce or fund affordable housing
- ◆ Municipalities are not required to expend local funds to build affordable housing
- ◆ The COAH process is voluntary

# What Is “Affordable Housing”?

## ◆ Regional Income Limits for Target Populations

**Moderate** = Households with incomes between 50% and 80% of regional median. In Region 4 for 2008, this would be \$67,653 or less for a family of four.

**Low** = Households with incomes between 49% and 30% of the regional median. In Region 4 for 2008, this would be \$42,284 or less for a family of four.

**Very Low** = Households with incomes below 30% of the regional median. In Region 4 for 2008, this would be \$25,370 or less for a family of four.

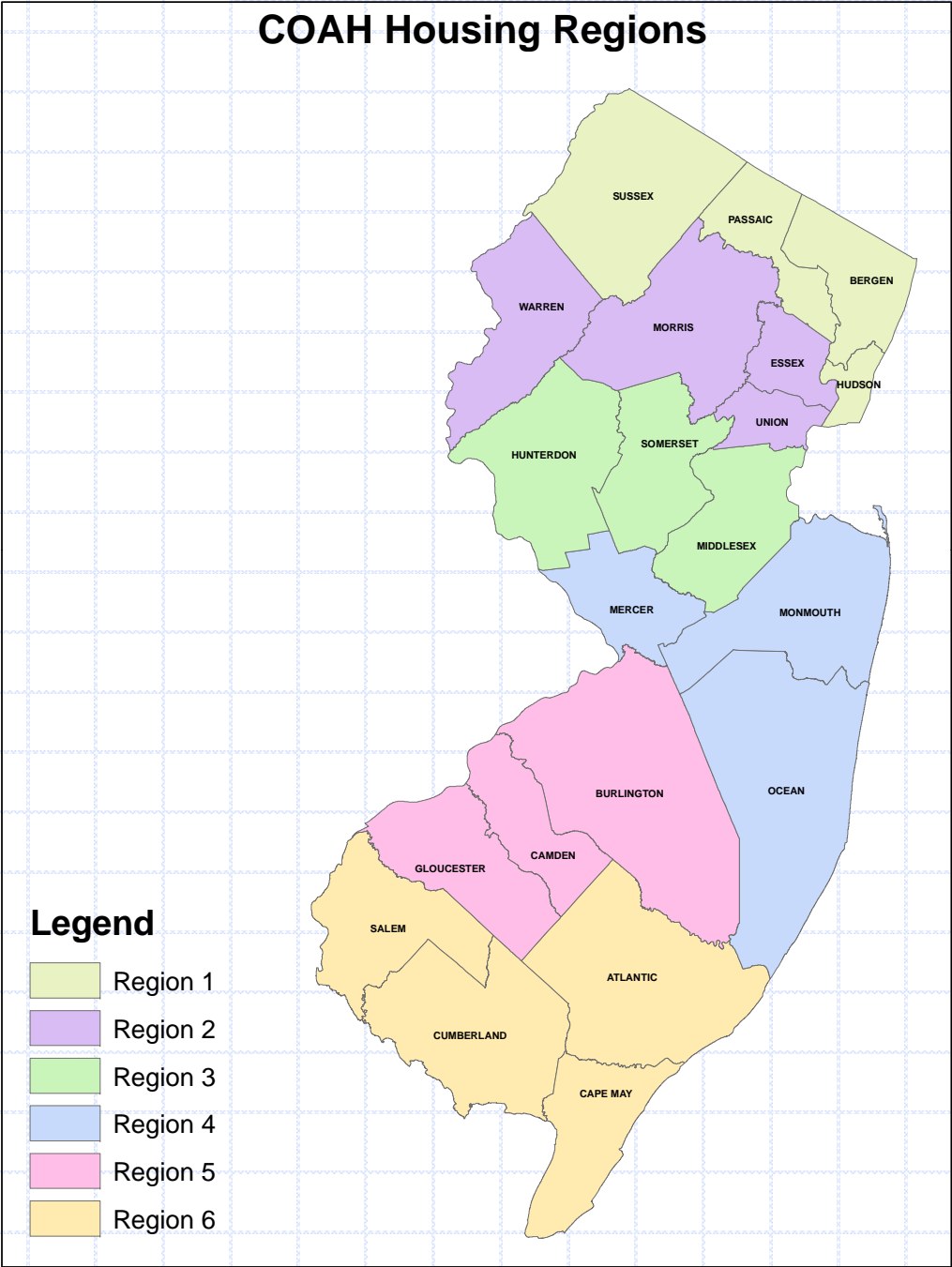
## ◆ Illustrative Sales Price for a 2 bedroom for-sale unit, at 70% of median –

**\$ 119,872**

## ◆ Illustrative Rental Cost for a 2 bedroom rental unit, at 60% of median –

**\$ 1,017 a month**

# COAH Housing Regions



## Legend

- Region 1
- Region 2
- Region 3
- Region 4
- Region 5
- Region 6

# Standards



- ◆ COAH creditable units must be **priced for and occupied only by low- and moderate-income** households.
- ◆ All COAH creditable units are required to have **deed restrictions** to maintain price and occupancy standards, most for **at least 30 years\*** (\*some exceptions for DDD units)
- ◆ All COAH creditable units must have had the **marketing** and advertisements available throughout the region.

# Fair Share Obligation (1999- 2018)

- ◆ Revised Third Round regulations adopted June 2, 2008, consist of:
  1. Rehabilitation Share (2000)
  2. Prior Round Obligation (1987 – 1999)
  3. Growth Share (1999 – 2018)

# Rehabilitation Share

- ◆ The number of housing units in the municipality that are both deficient and occupied by low- and moderate-income households based on 2000 Census
- ◆ Municipalities will receive credit for units that have been rehabilitated since April 1, 2000.

Hopewell Borough	0 units
Hopewell Township	5 units
Pennington Borough	0 units
Lawrence Township	47 units

# Municipal Compliance Options

## ◆ Rehabilitation Program (required)

- Must be offered for both rental and homeownership units
- Replacement of major system
- Average minimum investment of \$10,000 per unit
- Units rehabilitated after April 1, 2000 are eligible for credit
- 10-year affordability controls
- Adequate funding and marketing efforts

# Prior Round Obligation (1987 – 1999)

- ◆ The new construction obligation that was assigned to each municipality by COAH for the period 1987-1999.
- ◆ Municipalities receive COAH credit for affordable housing units that have already been created.

Hopewell Borough	29 units
Hopewell Township	520 units
Pennington Borough	52 units
Lawrence Township	891 units

# Growth Share (1999 – 2018)

- ◆ Municipalities utilize COAH projections of affordable housing obligations based on a percentage of future residential and non-residential growth.
- ◆ Results from a Statewide affordable housing need of 115,000 units

Hopewell Borough	24 units
Hopewell Township	483 units
Pennington Borough	35 units
Lawrence Township	537 units

# Growth Share Calculations

- ◆ Actual growth, based on certificates of occupancy issued for residential and non-residential development, is measured from January 1, 2004 to December 31, 2018.
- ◆ Affordable housing production must keep pace with actual growth

## Growth Share (1999 – 2018) (cont.)

### ◆ Growth share ratios:

- **Residential.** For every five residential units built in a municipality, one affordable housing unit must be provided.
- **Non-residential.** For every 16 jobs created, one affordable unit must be provided. Job growth is measured by square feet of non-residential construction.
- **Total growth share obligation** is the sum of residential and non-residential obligations.

# Vacant Land Adjustments

- ◆ Municipalities with little vacant, developable land may request an adjustment
  - Map existing vacant land
  - Exclude unsuitable parcels, including those:
    - ◆ Environmentally Constrained
    - ◆ Preserved Farmlands/ Open Space
    - ◆ Historic or Architecturally Significant Sites
    - ◆ Active and Passive Recreation Areas
  - Assign presumptive density to developable land with a 20% set-aside.

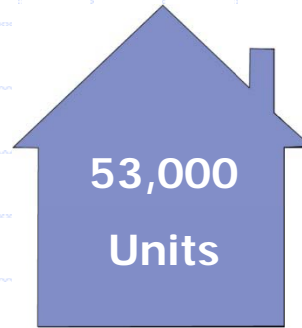
# Affordable Housing Targets

6 years



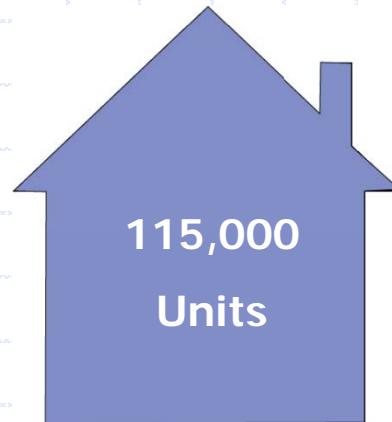
1999 - 2005

10 years



2004 - 2014

10 years



2008 - 2018

# Municipal Affordable Housing Options

## Inclusionary Zoning

- ◆ Inclusionary zoning provides an incentive to the developer to induce production of affordable housing
  - Zoning ordinance sets presumptive densities and set-asides
  - Ordinance requires consideration of bulk standard relief, clustering, reduced setbacks and increased building heights.
  - To encourage rental units, presumptive density is 12 units/acre and 20% set-aside. In Urban Centers and Workforce Housing Census Tracts, density is 25 units/acre and 15% set-aside.

# Presumptive Densities



- ◆ PA1 – 8 units/acre with a 25% set-aside
- ◆ PA2 and Designated Centers –  
6 units/acre with a 25% set-aside
- ◆ In Existing/Proposed Sewer Service Areas outside of PA1&2-  
4 units/acre with a 25% set-aside
- ◆ Outside of Sewer Service Areas and in PA3, 4 or 5 –  
40% increase in existing zoning with a 20% set-aside
- ◆ In Urban Centers –  
22 units/ acre with a 20% set-aside

# Municipally Sponsored and 100% Affordable Housing (N.J.A.C. 5:97 - 6.7)



## Factors to consider:

- Site suitability
- Site control
- RFP or executed developer's agreement with development schedule
- Pro-forma
- Evidence of funding



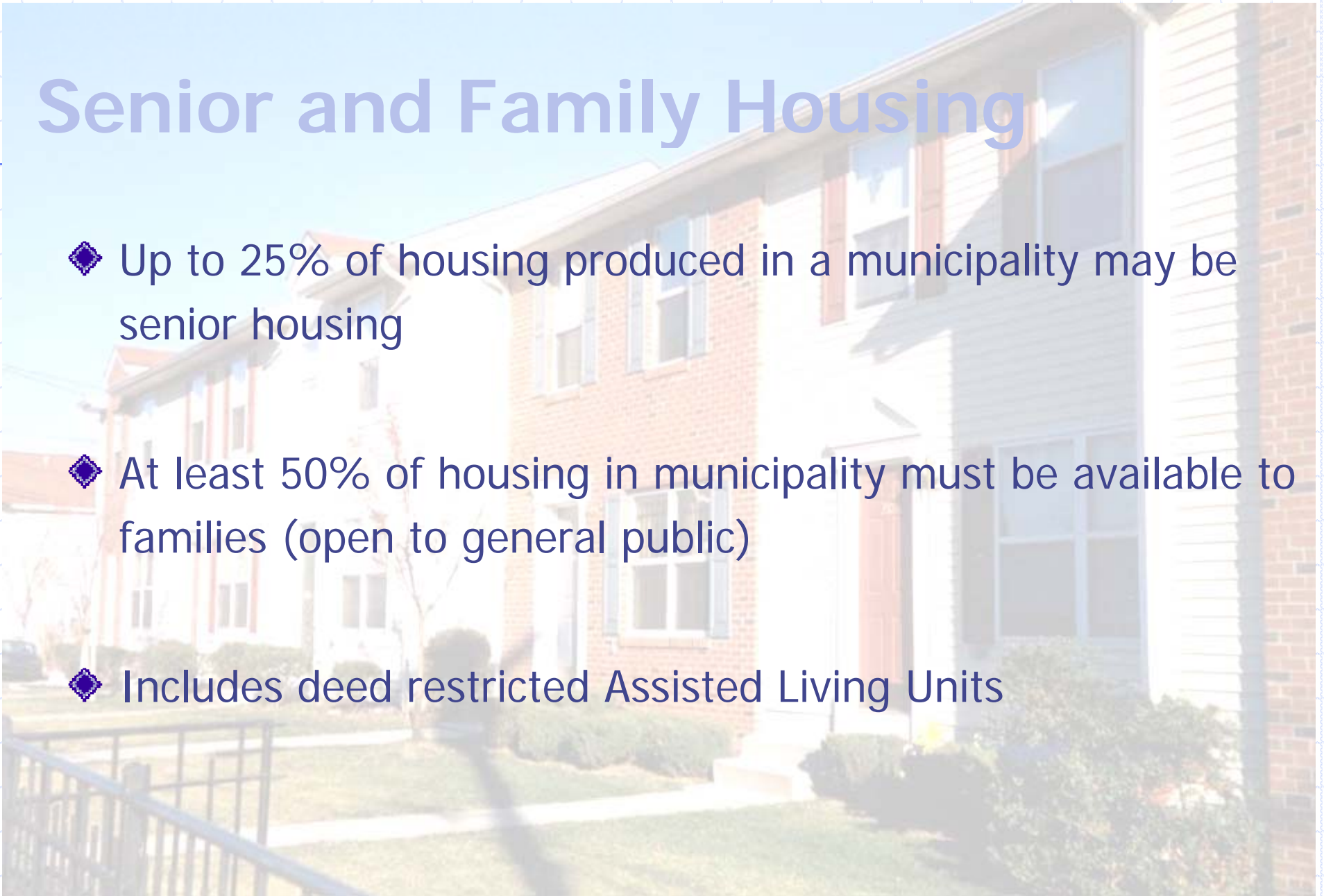
# Other Affordable Housing Options

- ◆ Affordable Housing Partnership Program
- ◆ Market to Affordable Program
- ◆ Extension of Expiring Controls
- ◆ Accessory Apartments
- ◆ Supportive and Special Needs Housing



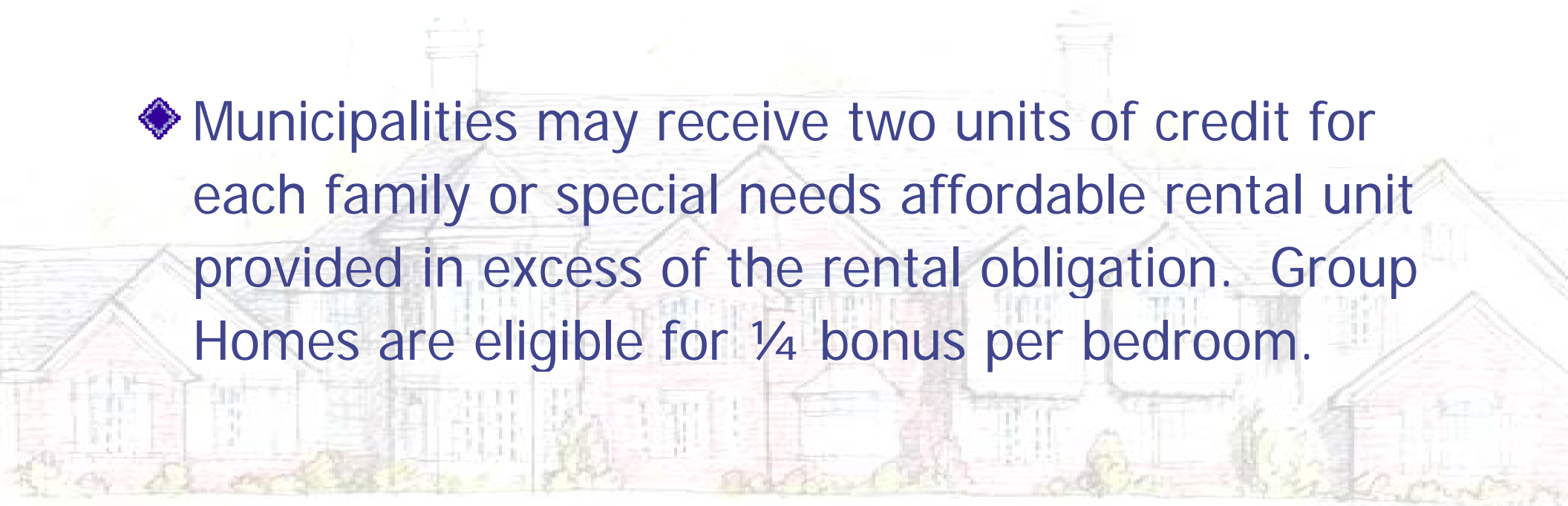
# Senior and Family Housing

- ◆ Up to 25% of housing produced in a municipality may be senior housing
- ◆ At least 50% of housing in municipality must be available to families (open to general public)
- ◆ Includes deed restricted Assisted Living Units



# Rental Housing

- ◆ At least 25% of housing in fair share plan must be rental housing.
- ◆ Municipalities may receive two units of credit for each family or special needs affordable rental unit provided in excess of the rental obligation. Group Homes are eligible for  $\frac{1}{4}$  bonus per bedroom.



# New Incentives

- ◆ Compliance Bonus – 2 units of credit for units in a plan that received preliminary or final approval, or was part of an executed developer's agreement, between December 20, 2004 and June 2, 2008 (Town had to petition prior to January 25, 2007).
- ◆ Smart Growth – 1.33 credits for units addressing growth share in a Transit Oriented Development (TOD) in Planning Area 1 (PA1) and Planning Area 2 (PA2) or a Center.
- ◆ Redevelopment – 1.33 credits for growth share units in redevelopment areas.
- ◆ Very Low Income Bonus – 2 units of credits for each unit in excess of the 13% obligation.

# Implementation Schedule

- ◆ New to the third round – municipalities may submit an implementation schedule that outlines when the affordable housing obligation will be met, allowing affordable housing to be planned but not delivered today.
- ◆ Schedules shall consider economic feasibility.

# Affordable Housing Trust Funds

- ◆ Currently approximately \$216 million in COAH-monitored affordable housing trust funds
- ◆ COAH now requires that municipalities spend affordable housing trust fund balances within 4 years of the approval of a spending plan

# Funding Options

## ◆ Development fees

- 1½% of equalized assessed value (EAV) for residential construction
- 2.5% of EAV for non-residential construction

## ◆ Payments in lieu of construction, \$152,227 in Region 4

## ◆ Federal and state funds

- DCA Balanced Housing Program
- HMFA Programs

# Proposed Legislation S-2485

- ◆ Exempts developers of non-residential projects approved prior to January 1, 2010 from 2.5% affordable housing fee; requires refunds.
- ◆ Exempts municipalities from providing for that portion of the affordable housing growth share obligation generated from any non-residential development exempted by the statute; requires COAH to adjust municipal fair share numbers.
- ◆ Appropriates \$15 million to the statewide Affordable Housing Trust Fund.

# NJ Housing Resource Center

The screenshot shows the NJ Housing Resource Center website. At the top left is the logo for the New Jersey Housing Resource Center. The main navigation area includes links for 'Find Housing' and 'Add Housing'. A sidebar on the left lists services and features, such as finding affordable housing and providing vacancy information. The bottom of the page features a footer with contact information and legal statements.

New Jersey  
**HOUSING**  
Resource Center

"NJHRC, Where Everyone Can Find a Home"

www.njhousing.gov

Español

*NJHRC provides an online tool for:*

- Finding and listing affordable housing
- Helping people with disabilities find housing options
- Obtaining housing information and links

*It's FREE and anonymous!*

*Vacancy information is updated bi-weekly!*

**What's New**

2,500,000 searches for apartments and houses performed on the HRC since August, 2005.

**Find Housing**

**Add Housing**

WELCOME

Information for...

**Consumers**

**Property Owners**

**Agencies**

contact us | privacy notice | legal statement | accessibility statement

www.njhousing.gov