

EXECUTIVE ORDER NO. 12

WHEREAS, in Southern Burlington County N.A.A.C.P. v. Township of Mt. Laurel, 67 N.J. 151 (1975) ("Mt. Laurel I") and Southern Burlington County N.A.A.C.P. v. Township of Mt. Laurel, 92 N.J. 158 (1983) ("Mt. Laurel II"), the Supreme Court of New Jersey identified a constitutional obligation on the part of municipalities to provide, by their land use regulations, for an appropriate choice of housing for all categories of people who may desire to live there, including an obligation to provide affordable housing to those of low and moderate income; and

WHEREAS, in the decades since the Supreme Court of New Jersey's decisions in Mt. Laurel I and Mt. Laurel II, there have been extensive legislative and regulatory efforts undertaken to ensure compliance with the Supreme Court's decisions and constant litigation concerning the scope and implementation of the Supreme Court's decisions and the legislative and regulatory efforts undertaken to comply with those decisions; and

WHEREAS, among the legislative efforts undertaken in response to the Mt. Laurel decisions was the enactment of the State Planning Act to create a State Planning Commission to adopt a State Development and Redevelopment Plan ("State Plan") for, inter alia, growth, open space, agriculture and conservation, and to project the growth in employment, population, housing and land needs for development and redevelopment in New Jersey; and

WHEREAS, in addition to the State Planning Act, the Legislature also enacted the Fair Housing Act ("FHA") to implement the constitutional obligation to provide affordable

housing by creating the Council on Affordable Housing ("COAH"), and COAH has developed procedures and regulations in an effort to provide affordable housing in a manner that is consistent with the constitutional obligations identified in the Mt. Laurel decisions and the State Plan; and

WHEREAS, the burdensome procedures governing the provision of affordable housing in New Jersey for those with low and moderate income developed by COAH are excessively complex and unworkable, resulting in delays, inefficiencies, litigation and unreasonable costs to municipalities and the private sector without appreciable progress being made for our citizens; and

WHEREAS, at present, COAH's long-delayed "Third Round" regulations that were originally due in 1999, adopted in 2004, delayed by litigation, and adopted in final form in 2008, are again being challenged before the Court; and

WHEREAS, the New Jersey State Constitution requires the Governor to take care that the laws of this State be faithfully executed, N.J.Const. (1947) Article V, Section 1, Paragraph 11; and

WHEREAS, as Governor, I am committed to ensuring compliance with constitutional requirements in a manner that is as efficient and effective as possible; and

WHEREAS, new thinking on statewide planning is necessary due to the failure of COAH to ensure that all constitutional obligations with respect to the provision of affordable housing are satisfied in a manner that is both fair and reasonable to the already burdened municipalities of our State; and

WHEREAS, the statutory and regulatory mechanisms currently in place have proven to be an unduly burdensome and wholly ineffective means of meeting these goals; and

WHEREAS, the Legislature is presently considering amendments to the FHA and related statutes, which amendments include the abolition of COAH, the elimination of "growth share" as a methodology to determine prospective need and the elimination of a municipality's prior housing obligations;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby established a Housing Opportunity Task Force that shall undertake a review of the FHA, State Planning Act and the current and former COAH regulations and methodologies (the "Task Force"). The Task Force shall assess the effect of these laws, the degree of success in accomplishing the goals of meeting the constitutional obligations under the Mt. Laurel decisions consistent with sound planning and economic growth, and the continued existence of COAH.

2. The Task Force shall consist of 5 members appointed by the Governor who shall serve at his pleasure. The Governor shall select a chairperson from among the members of the Task Force. All members of the Task Force shall serve without compensation. The membership shall include individuals who have knowledge or expertise in the areas of affordable housing, economic development, land use planning, environmental protection and related issues.

3. The Task Force is charged with providing recommendations to the Governor and specifically shall consider the following, among other issues: (1) the best means for determining whether a municipality should have any further

affordable housing obligation; (2) the regions that have been used by COAH for more than 20 years and whether they are still appropriate; (3) the means of incorporating workforce housing into the concept of affordable housing; (4) the diverse and significantly divergent State projections for housing and employment growth to determine the obligation for a variety and choice of housing, taking into consideration the need for open space preservation and environmental protection as elements of sound land use planning; (5) mechanisms that should be used to support the rehabilitation of deteriorating housing in the urban centers; (6) the means of developing economies, efficiencies, and savings in the development process; (7) ways to encourage rehabilitation as well as new development in meeting the need for affordable housing; (8) the appropriateness of methodologies that continue to include prior round need or include retroactive growth as part of a growth share approach; and (9) any other issue referred to the Task Force by the Governor.

4. The Task Force shall issue a report to the Governor and the Commissioner of the Department of Community Affairs with its recommendations within 90 days of the date of this Order. The Task Force shall expire upon the issuance of its final report. The final report of the Task Force shall be provided to the Legislature and shall be made available to the public.

5. For the next 90 days, COAH shall refrain from taking any further action to process applications for substantive certification or to take any other actions to implement the Third Round regulations. The provisions of this Paragraph shall not apply to any action if the applicant, for good cause

shown, requests action on a particular item and the Acting Commissioner determines that such action is required within the 90 day period to prevent the loss of affordable housing opportunities

6. All State officials and agencies shall cooperate fully with the Task Force in the implementation of this Order, and shall promptly furnish the members of the Task Force with any and all information and assistance that they may from time to time request

7. This Order shall take effect immediately and shall remain in full force and effect until rescinded, modified, or supplemented by me.

GIVEN, under my hand and seal this
9th day of February,
Two Thousand and Ten, and
of the Independence of the
United States, the Two
Hundred and Thirty-Fourth.

/s/ Chris Christie

Governor

Attest:

/s/ Jeffrey S. Chiesa

Chief Counsel to the Governor