MID-POINT REVIEW PER N.J.S.A. 52: 27D-313

IN THE MATTER OF THE APPLICATION OF THE BOROUGH OF Alpine
DOCKET NO. BER-L-293-20 ("LITIGATION")

The Borough of Alpine has not yet entered into a settlement ("Settlement Agreement") with Fair Share Housing Center ("FSHC"), a Supreme Court-designated interested party, to resolve the Litigation. However, the Borough is involved in litigation, entitled Sylco Investments #4, LLC, Sylco Investments #5, LLC, and F.E. Alpine LLC v Borough of Alpine.

For the purposes of this mid-point review, the following is noted:

1. The Borough adopted its last Housing Element and Fair Share Plan (HE&FSP) based upon a 'fair share' methodology in 2000 (subsequent Plans based upon COAH's 'growth share' methodology were invalidated when the Court invalidated this COAH methodology).

2. The Borough received a judgment of compliance and repose in 2000.

3. The 2000 Plan and the judgment of compliance and repose set the Borough's Realistic Development Potential at thirty two units, which was satisfied by sixteen units to be developed by a Regional Contribution Agreement to be paid by the Borough pursuant to the COAH regulations in place at that time, with the balance of the sixteen units to be satisfied by the Borough constructing eight low and moderate income residential rental units, not age restricted, and receiving eight rental bonus credits for the affordable rental units.

4. A Regional Contribution Agreement was completed with the Borough of Fairview and construction of affordable units were subsequently completed in a timely fashion pursuant to the judgment of compliance and repose and the adopted HE&FSP and its implementing ordinances.

5. The Borough prepared a new HE&FSP following its receipt of temporary immunity from inclusionary lawsuits from the Court in 2015, pursuant to the March 2015 Supreme Court decision regarding the inability of COAH to adopt new compliant Third Round rules. This Plan included the preparation of an assessment of vacant land in the Borough, pursuant to COAH's prescribed vacant land adjustment (VLA) and realistic development potential (RDP) process, to determine the Borough's RDP and adjusted affordable housing obligation. The analysis revealed there are only 2.06 acres of vacant developable land which were not previously addressed in the vacant land adjustment approved under the 2000 Judgement of Compliance and Repose. These 2.06 acres of vacant developable land translate to an RDP of 3 affordable housing units pursuant to the COAH methodology set forth in the Second Round regulations.

6. The Borough proposes to address this 3 unit RDP obligation with the development of 3 municipally-sponsored affordable rental units, which are to be constructed on the same site as the existing 8 unit municipally-sponsored affordable rental development.

7. During the pendency of the review of that Plan with FSHC, the Borough was approached by Sylco Investments LLC who sought to redevelop a developed property on Closter Dock Road. This has led to litigation involving this site and its development for affordable housing. This litigation is currently pending before the Superior Court of New Jersey and is proceeding under a Case Management Order by the Court which anticipates a trial early in 2021.

8. The status of the current site designated for additional affordable housing in the HE&FSP remains as proposed in 2015; it is approvable, developable, suitable and represents a fair and reasonable site to address the needs of low and moderate income households, and continue to represent realistic opportunities for affordable housing in the Borough.

Any interested party may submit comments to the Borough of Alpine Clerk, with a copy of the comments to Fair Share Housing Center, regarding the Borough's mid-point status report as set forth above and whether any unbuilt sites no longer present a realistic opportunity for affordable housing and should be replaced. Any interested party may also, by motion practice, request a hearing before the court regarding the aforesaid issues.