

NJ Appellate Panel Blocks Plan to Seize Unused Affordable Housing Funds

On Friday, August 10, 2012, an appellate panel blocked Governor Christie and the state from taking \$161 Million in unused affordable housing funds from NJ towns, granting a reprieve for 372 municipalities who would have had to transfer their unused funds to the state.

The COAH board, which has been defunct for over a year will now be required to hold a forced meeting to determine whether the towns have a deadline to turn over the funds. Governor Christie abolished the COAH board last year which oversees the towns expenditure of affordable housing funds. The appellate judges determined that the Governor did not have the authority to dismantle the board and ordered the board reinstated. This ruling was determined by Judges Clarkson Fisher, Jr. and Philip Carchman.

Based upon a 2008 law, Governor Christie determined that any money not committed by July 17, 2012, to low and moderate income housing projects must be relinquished to the state. The Fair Share Housing Center went through the court system to block the transfer of funds and an appellate panel said last month that the funds could not be transferred without giving towns a chance to appeal the state and an accounting of what is considered "Uncommitted funds". The State Department of Community Affairs complied by issuing the letters, which sets the deadline for the money transfer to next Monday, August 13 but in a second court challenge, Fair Share Housing, contended that only the COAH board could ask for the money.

If you have not yet sent any of the trust funds to the state, DO NOT. If you have already done so, it is recommended that you demand in writing, that the funds be returned to your municipality. We also recommend not to submit a signed certification by the Mayor as stated in the July 24th letter until the COAH board meets and decides how to proceed. Lastly it is recommended that if you would like to supply information other than through the certification to build your record, please consult with your legal adviser.