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Superior Court Dismisses Municipal Challenge to 2024 Fair Housing Act

On September 30, 2025, Superior Court Judge Robert Lougy dismissed litigation filed by several municipalities challenging the validity of the 2024 Fair Housing Act (the "Act") with prejudice. The Act, which established a new affordable housing framework, now stands on a firmer legal foundation that provides all interested parties with a greater degree of certainty and stability in the processes, procedures, and timelines the Legislature enacted last year.

The municipalities alleged, among other things, that the Act was unconstitutional. The Court rejected all of Plaintiff's arguments, emphasizing that the Legislature has considerable flexibility to enact legislation in the affordable housing arena and implement the Mount Laurel doctrine. The Court held that the municipalities lacked standing as participation in the process is voluntary. The Court opined that, even if standing existed, Plaintiff's arguments lacked merit. The - unsuccessful claims included allegations that aspects of the Act were illegal, violated the separation of powers principle, should have been considered "special legislation" and constituted an unfunded mandate.

Although the Plaintiffs have the right to appeal, this decision upholds the Affordable Housing Dispute Resolution Program (the "Program") established by the Act, which has already begun processing challenges to affordable housing plans filed by municipalities throughout the state. This challenge to the Act has not delayed or slowed the work of the Program. The Program is currently scheduling and hearing settlement conferences and will continue to mediate disputes through 2025. Under the Act, the Program has until December 31, 2025, to complete its dispute resolution process and conduct any necessary hearings prior to making recommendations to the Court on whether to certify municipal affordable housing plans. Municipalities that have chosen not to participate in the Program have lost their immunity and are vulnerable to exclusionary zoning litigation.

The Day Pitney real estate team is guiding over a dozen developer and property owner clients through the new Program process and is closely monitoring court rulings and municipal actions related to this new framework. If you are evaluating residential development opportunities in New Jersey, our team can counsel you on how best to advance your projects.

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