



MAYORS FAX ADVISORY

October 8, 2008

Re: **COAH Challenge Update;
Motion for Stay**

Dear Mayor:

We learned yesterday that our motion to the Appellate Division seeking a stay of the December 31 deadline to file COAH petitions has been denied. We are disappointed, but not surprised by the Court's action. Unfortunately the end result will be towns seeking COAH substantive certification will have to prepare plans based on a faulty methodology, a discredited vacant land analysis and the knowledge that further amendments, which will require adjustments to plans, are to be proposed in the upcoming months.

We note, however, that the League's motion was only seeking a stay of the deadline, and that our challenge to the regulations proceeds. To date, 237 municipalities have pledged towards our challenge seeking to invalidate COAH's methodology and to replace it with a sustainable affordable housing strategy. The Court also advised us to file our brief in this matter by January 4, 2009

The Court, however, also ruled on a number of outstanding motions regarding the 24 current appeals of the COAH regulations. In general, the Court accepted the procedure and proposed calendar set forth by the League and municipalities and established the League's appeal as the lead case.

The League, based on requests from municipal governments, agreed to submit its brief early, so that these municipalities could rely on our master brief in advancing their own arguments.

Therefore, by January 4, 2009 the following organizations must file their briefs in their respective challenges to the COAH regulations: the League of Municipalities, the New Jersey Builders Association (NJBA), the NJ Chapter of the National Association of Industrial and Office Properties (NAIOP) and the Fair Share Housing Center (FSHC.) The Court ordered that these parties file a joint appendix which the other parties can rely in filing their briefs. The remaining parties are permitted to supplement the joint appendix in their briefs.

Other appellants, including other groups of municipalities challenging the regulations will have until February 3, 2009 to file their briefs challenging COAH regulations.

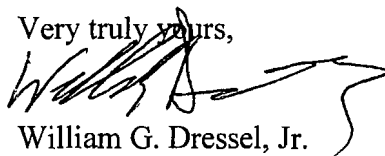
The Attorney General's office will then have until March 5, 2009 to file their reply to the challenges brought forth by the Appellants. All appellants will then have until April 4, 2009 to file reply briefs to COAH's brief. Oral argument will follow, but we do not know when that will be scheduled.

We want to take this opportunity to thank Edward Buzak, Esq., who is representing the League in this matter. While this motion was denied, the League's motion to the Court skillfully laid out the hardships imposed on local governments and taxpayers by the arbitrary December 31 deadline. While we respectfully disagree with the Courts actions, we understand its concern not to be seen as obstructing affordable housing. As the events of the upcoming months unfold, we believe it will be demonstrated that the frustration of housing in the State is a result of the State's housing policy and an invalid methodology put forth by COAH.

If your municipality has not yet pledged, but would like to contribute, a copy of the pledge form can be downloaded at: <http://www.njslom.org/COAH-3rd-round-pledge.pdf>

Questions on this correspondence can be directed to Mike Cerra at mcerra@njslom.org or (609) 695-3481 x120.

Very truly yours,



William G. Dressel, Jr.
Executive Director

WGD:mc/sc