

# THE NEW JERSEY PLANNER

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## Under Dark of Night, The Governor Looks to Ram through Legislation Taking Away Your Rights

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The last time the Council on Affordable Housing (“COAH”) proposed regulations to implement the Fair Housing Act (“FHA”), over 3000 members of the public made comments on the rules after having over 30 days to review the proposed regulations and comment. In stark contrast, the Legislature announced that it wants to ram through Legislation in lame duck that, if enacted, would abolish COAH and radically rewrite the Fair Housing Act – an Act that established rights to protect the public from a doctrine that was widely regarded as a “steamroller out of control”. Indeed, the Legislature posted the bill on the agenda of the Assembly’s Housing Committee this morning without making the bill available to the public and then pressed the committee to approve it tomorrow before the public has had a meaningful opportunity to review it and offer comments on legislation that, if enacted, would affect the lives of every citizen of the State.

Affordable housing issues that the Supreme Court characterized as of “monumental” importance deserve to be carefully examined by the public in the light of day-not kept secret, unveiled at the last possible moment, and blasted through before the public even has a chance to review Legislation that will affect it so profoundly. Sure, we should hear from 40 percent of the households in the state who qualify as low or moderate, but we should also hear from all relevant stakeholders including all municipalities, regional

## Calendar of Events

### NJPO 2024 Mandatory Training Classes

**Saturday January 27, 2024**  
**8:30 am – 1:30 pm**

**Thursday February 29, 2024**  
**5:30 pm – 10:30 pm**

**Saturday March 30, 2024**  
**8:30 am – 1:30 pm**

**Sunday April 21, 2024**  
**9:30 am – 2:30 pm**

**Wednesday May 29, 2024**  
**5:30 pm – 10:30pm**

**Sunday June 30, 2024**  
**9:30 am – 2:30 pm**

Registration available at:  
<https://www.njpo.org/events/>

### NJPO Board of Directors Meeting

January 29<sup>th</sup> at 7 pm (virtual)


## Bill Reducing Parking Availability

### Advances out of Committee

In November, the Assembly State and Local Government Committee favorably moved Assembly Bill 4984 / Senate Bill 3605, which would reduce the number of parking spaces required under the statewide site improvement standards at residential developments. This bill would reduce parking by 20%, 30%, and 50%, relative to the development's proximity to public transportation.

Under current law, an applicant can obtain relief from the standards at the time of a public hearing on a case-by-case basis, but such relief is subject to the scrutiny of local officials. When done at a local level, this allows for individual projects to be reviewed and relief to be granted when appropriate. This type of review ensures that the total amount of parking is appropriate for the development within the community. A wholesale reduction without appropriate review for each project risks creating insufficient parking to service the area's residents and businesses.

In other areas of the country where similar policy changes have occurred, they have been done in conjunction with efforts to increase public transportation usage or make roads more accessible to bicyclists and pedestrians. This current bill does not include such efforts. For these reasons, the League of Municipalities currently opposes the legislation.



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## Newark takes steps to address backlog

The Newark City Council approved the creation of a supplemental zoning board of adjustment at its November 21, 2023 meeting. The board is intended to help reduce the time developers have to wait for a hearing, thereby reducing costs.

The supplemental zoning board of adjustment will help clear a backlog of development applications requesting use variances. The board will consist of seven regular members and may have not more than four alternate members. All members of the supplemental zoning board of adjustment shall be municipal residents.

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planning entities, the 60% of taxpayers who are not low- and moderate-income, planning and financial experts and others.

When the Legislature enacted the FHA, it promised the public that it would establish rights to protect their interests. More specifically, it promised:

1. To provide “reasonable fair share housing guidelines” and it did just that. See N.J.S.A. 52:27D-302, 307. In 1985, the Legislature used the

words “reasonable fair share housing guidelines” to mean the antithesis of the applicable fair share formula of the time (the AMG formula).

2. To suppress the builder’s remedy to the maximum extent possible. See N.J.S.A. 52:27D-303, 309, 316 and 328.
3. To not make towns spend their own money to comply. See N.J.S.A. 52:27D- 311 (d).


In addition, the Legislature promised that an apolitical board with representation from all the major stakeholders would administer the FHA and implement the affordable housing policy mandates the Legislature established.

In what is surely a complete coincidence, the legislation comes on the heels of oral argument wherein 17 municipalities challenged the Governor for his efforts to abolish COAH through calculated inaction. Hence, less than a week after oral argument, we get legislation that proposes to abolish COAH, an agency that the Supreme Court described as follows:

The membership requirements in the statute ensure that a cross-section of community and State interests serve on the Council, with individual members representing different voices: local government, households in need of low- and moderate-income housing, nonprofit builders of affordable housing, the disabled, for-profit builders, and the public interest. *Ibid.* **Together, they comprise a balanced group with different perspectives.**

FSHC and this Bill’s sponsors do not want a balanced body with four members representing the interests of low- and moderate-income households and four representing municipalities as the FHA requires to administer the FHA and implement the mandates the Legislature established when it enacted the FHA.

While we have to review the Legislation before we can provide a substantive analysis, the reports of what the Legislation will contain make clear that the bill proposes not only to abolish COAH-the centerpiece of the FHA, but



**THE NEW JERSEY PLANNING OFFICIALS**  
*The Association of Planning Boards & Zoning Boards of Adjustment*  
**Founded in 1938**

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