

U.L. v. Carter et

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Dainsboro

Ordinance establishing Affordable
Housing

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PI # 5136

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ORDINANCE ESTABLISHING AFFORDABLE HOUSING
REQUIREMENTS, STANDARDS, AND MONITORING OF SAME

BE IT ORDAINED, By the Township of Plainsboro as follows:

Section 1 - Definitions:

"Income Ceiling" means 80% of the regional median income for moderate income; and 50% of the median regional income for low income.

"Agency" means the Affordable Housing Agency of Plainsboro Township as created by this ordinance.

"Regional Median Income" means the published (by HUD or other federal agency) average median income for the eleven counties including: Bergen, Essex, Hudson, Hunterdon, Middlesex, Morris, Passaic, Somerset, Union, Sussex, Warren. For ease of calculation, "Regional Median Income" may be figured as 94% of the PMSA in which Plainsboro is located.

"Gross Aggregate Family Income" means the total annual income from all sources of all members of the household, as determined in accordance with the rules and regulations promulgated by the Agency. In determining amounts to be excluded from income the Agency may, at its discretion, consider the number of minor children in the household and such other factors as the Agency may deem appropriate, consistent with State and Federal Guidelines.

"Low and Moderate Priced Dwelling Units" means the dwelling units approved or constructed pursuant to the Township ordinances to provide housing for families of low or moderate income as defined in this ordinance.

"Low and Moderate Income Family" means a family whose gross aggregate family income does not exceed the limits established in this ordinance.

"Utilities" means those utilities that are essential to the safe and sanitary operation of a household and shall include water, sewer, electric, and heat. Utilities for the purpose of this ordinance shall specifically not include cable television or telephone.

Section 2 - Establishment, Powers and Duties of Affordable Housing Agency:

2.1 Establishment - There is hereby established an Affordable Housing Agency of the Township of Plainsboro. The Agency shall consist of the number of staff persons determined by the Township Administrator and approved by the Township Committee as needed to fulfill the requirements of this ordinance and as provided for in the annual budget. The Agency shall report to the Township Administrator and shall be located within the Department felt to be appropriate by the Administrator. The Agency shall work with the Plainsboro Township Housing Advisory Committee to meet mutual goals and to request assistance and feedback. The Agency shall report to the Township Committee through the Township Administrator.

2.2 Duties - The Agency shall:

a) create the rules and regulations needed to implement the policies and goals of this ordinance, specifically: to retain low and moderately priced housing, as such, once constructed; and to restrict the initial sale and rental and the resale, re-rental, and/or occupancy of such units to families of low and moderate income.

b) monitor the continued existence of low and moderately priced dwelling units as such by: reviewing the qualification of prospective purchasers and tenants to confirm that they are families of low or moderate income; determining the maximum resale and rent levels of the low and moderately priced dwelling units to assure that the units remain affordable to families of low or moderate income; and requiring that a covenant be recorded with each deed restricting the resale to families of low or moderate income, as appropriate.

c) provide annual reports of all activity to the Township, Courts, Litigants and others as required.

d) provide for and implement an Affirmative Marketing Program for all housing covered by this ordinance.

2.3 Guidelines - The following guidelines set the methodology of determining the specific definitions of low and moderate income families, low and moderately priced dwelling units, housing size for household size, and other conditions and restrictions of this ordinance. The income and costs shall be reviewed by the Agency annually and updated if new information is available. The source of data shall be readily available published Federal data from the United States Department of Housing and Urban Development or successor agency.

2.3 a Low and Moderate Income - Prospective purchasers or renters of low or moderately priced dwelling units must be qualified prior to purchase or rental as a family of low or moderate income.

A low income family is a family with income less than 50% of regional median income with adjustments for family size. When a State or Federal subsidy and/or guarantee program to assist low or moderate income families is involved, the income levels established for that program shall prevail provided that said income levels shall not exceed the greater of the PMSA or the regional median income levels.

A moderate income family is a family with income less than 80% of regional median income with adjustments for family size. Where a State or Federal subsidy and/or guarantee program to assist low or moderate income families is involved, the income levels established for that program shall prevail. Provided that said income levels shall not exceed the greater of the PMSA or the regional median income levels.

The median regional income level shall be determined by taking the arithmetic average of the median incomes for the eleven county region according to the latest published data.

2.3b Affordable Sales Price - The Affordable Sales Price shall be determined such that the sum of the monthly payments for principal, interest, property taxes, theft and liability insurance, and homeowner association fees does not exceed 28% of 90% of the maximum income for low income or moderate income families. The following assumptions shall be made:

A ten percent down payment requirement and a thirty year mortgage

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term shall be assumed in making this calculation.

In calculating the monthly interest payment, the interest rate provided by the developer as being available to the subject development for low/moderate income units shall be utilized. If the developer or any other entity offers to buy down the prevailing rate of interest for a minimum of three years commencing at the time of purchase, and the terms of the buy down provide that the increase in interest rate charged does not exceed one half of one percent (0.5%) per year during the period of the buy down, the interest rate for the first year of the buy down period shall be used in the calculation above to determine affordability. If the increase in the interest rate exceeds one half of one percent (0.5%) per year, the average interest rate for the period of the buy down shall be used.

If the developer proposes that an adjustable rate mortgage (ARM) be used to calculate the monthly interest rate payment, the initial interest rate of that mortgage shall be used only if the maximum annual average increase does not exceed one-half of one percent (0.5%). Otherwise, a rate which is the average of the initial interest rate and the highest possible rate in effect after three years shall be used.

2.3c Prior to final approval of any development subject to these provisions, the Affordable Housing Agency shall determine the maximum sales prices by unit size for the low and moderate income units in the development and shall so notify the developer. These prices shall remain in effect for a period of one year or until all of the low and moderate income units have been sold, whichever occurs first. The developer may request a modification of the maximum sales prices at any time by applying to the Affordable Housing Agency for recalculation of these prices based on changes in any of the factors used to calculate these prices.

2.3d Prior to the resale of any low or moderate income unit, the Affordable Housing Agency shall determine the maximum sales price for that

unit in accordance with a formula developed by the Agency which takes into account increases in a generally accepted price or income index, reasonable improvements to the property as determined by the Agency, reasonable out-of-pocket costs of the sale as determined by the Agency, and which, to the extent feasible, ensures that the sales price will be consistent with the affordability standards set forth in subsections above.

2.3e Affordable Rental Price - The Affordable Rental Price shall be determined such that the sum of the monthly rental payment, including utilities but exclusive of any recreational fees, does not exceed 30% of 90% of the low income or moderate income ceiling.

If the cost of all utilities, including heat, hot water, cooking fuel, and electricity, is not included in the monthly rental charge, an estimated monthly charge for those utilities not included in the rent shall be calculated for each unit size. This estimated charge shall be subtracted from the maximum gross rent to determine the maximum rental charge that may be imposed for each low and moderate income unit.

2.3f Once the maximum rental charges have been determined for a development subject to the provisions of this Section, such charges shall not be increased without the prior written approval of the Affordable Housing Agency. The Agency shall establish appropriate criteria and procedures for allowing periodic rental charge increases consistent with the affordability standards set forth in subsections above. No more than one rental charge increase shall be allowed for any unit or group of units within any twelve (12) month period.

2.3g Household Size Related to Family Size - To determine sales or rent levels affordable to different sized families, it is assumed that the following family size would occupy the following sized dwelling:

<u>Dwelling Size</u>	<u>Family Size</u>
Efficiency	1 Person
One Bedroom	2 Persons
Two Bedroom	3.5 Persons
Three Bedroom	4.5 Persons
Four Bedroom	5 Persons

2.3h Expiration of Restriction - Restrictions placed on re-sale or re-rental of housing units whether through agreement, deed restriction or covenant, or other means, shall expire upon the completion of 30 years from the date of the initial restriction.

Exceptions to these restrictions may be provided for in the case of foreclosure and resale by the tenant after foreclosure, and also to conform to the control period fixed by any State or Federal subsidy and/or guarantees program used to provide the low or moderate income housing.

2.3i Appeals - Appeals from the rulings or determination of the Affordable Housing Agency shall be to the Township Committee.

2.4 Requirement to File for Determination - All housing which is constructed or used to fulfill the Township's low and moderate income housing need pursuant to the stipulation of settlement with the Urban League dated or subsequent action of the Township Committee, shall be required to continue to meet the affordability requirements at the time rented or sold or re-rented or resold initially designated for those units for a period of 30 years. In order to ensure that this requirement is met on an initial and on-going basis, prospective owners and/or renters shall be pre-qualified by the Agency and a certificate as to their qualifications shall be issued. Renters must be requalified at least every three years. In the event that the renter's income exceeds the applicable low/moderate income standards, the renters' shall pay 30% of their annual income for rent up to the market rent. Notification of this requirement to the potential purchaser or renter shall be the obligation of the seller or landlord.

2.5 Affirmative Housing Marketing Plan - The Agency will develop and implement an Affirmative Housing Marketing Plan for dwellings covered by this ordinance. At a minimum the availability of housing for low/moderate income families shall be made known to a variety of public and private housing agencies and shall be advertised in appropriate ways throughout the eleven county region. All advertisements shall conform with applicable Affirmative

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Action, Equal Opportunity, and non-discrimination laws of the State and Federal government.

2.6 Twenty Percent Set Aside - In the event that any new housing is approved in the Township at a gross density of more than four (4) dwellings per acre then ten percent of all such dwellings constructed will be made affordable to low income households and ten percent of all such dwellings shall be made affordable to modern income households. In the event of such construction, all requirements of this ordinance shall be met.

New housing, for purposes of this ordinance, does not include any housing which has at the time of adoption, conceptual, preliminary, or final approval. New housing will also not include any housing that is built to meet the requirements of the Urban League stipulation of settlement.

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