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for Princeton TWP
by Mallach

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FAIR SHARE HOUSING ALLOCATION ANALYSIS FOR PRINCETON TOWNSHIP

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The following analysis of Princeton Township's fair share housing allocation under the doctrine set forth by the New Jersey Supreme Court in the Mount Laurel II decision has been prepared using the method set forth by Eugene Serpentelli J.S.C. in his recent decision in AHG et al. v. Township of Warren. This decision sets forth all of the allocation factors, as well as the definition of need, used below. It should be noted, however, that the subject of *credits* i.e., the number of units that can be subtracted from a municipality's fair share based on present or past performance, was not addressed in the Warren decision. The discussion of credits that appears in this report, therefore is based on the best judgement of the author as to how that subject should be treated in a manner consistent with the Mount Laurel decision.

Before presenting the actual allocation procedure, a brief discussion on the subject of fair share, and the locus of fair share responsibilities under the Mount Laurel II doctrine is appropriate.

I. THE MUNICIPAL FAIR SHARE OBLIGATION

A fair share obligation is, simply stated, a quantification of the lower income housing units that a municipality should seek to have provided, over a fixed period of time. Under the Mount Laurel II doctrine, a central part of the process of meeting lower income housing needs is the determination of a fair share obligation for each community. The "numberless" approach suggested in the Madison decision has been superseded; the underlying logic of the more recent decision is that a precise number is necessary to serve as a basis for a community to develop an explicit and concrete program which will indeed create the realistic opportunity for lower income housing which the Court is seeking.

Within a municipality's overall obligation are two elements which will be defined in more detail below: The municipality's indigenous need, which is the need created by households already existing within the municipality, and the municipality's fair share of regional needs. The Court was explicit with regard to the locus of responsibility for the firsts

Every municipality's land use regulations should provide a realistic opportunity for decent housing for at least some part of its resident poor who now occupy dilapidated housing. (92 NJ at 214)

The Court then indicates 'one set of circumstances under which this obligation can be limited'

...Each municipality must provide a realistic opportunity for decent housing for its indigenous poor

except where they represent a disproportionately large segment of the population ^{as} compared with the rest of the region (at 214-215)

This, the court notes, is meant to apply principally to the core cities of the state, such as Newark or Trenton. ^{It} clearly has no application to Princeton Township.

The Court then turns to the second category, the fair share of regional needs. after making clear that the 'developing municipality' standard adopted by trial courts from the first Mount Laurel decision is no longer applicable, the Court states:

The fair share obligation extends.... to every municipality, any portion of which is designated by the State, through the State Development Guide Plan, as a "growth area", (at 215)

Thus, none of the tests previously used in litigation - rapid growth, vacant land, etc. - are relevant. The only threshold test of whether a municipality does or does not have a regional fair share allocation is whether it is located, in any part, in an SDGP growth area.

II. THE FAIR SHARE ALLOCATION PROCESS

In this discussion we will seek to provide a step-by-step description of the fair share housing allocation process, and a thumbnail definition of each category of housing need, or allocation factor. The rationale for defining need in the particular manner chosen, and for selecting the particular allocation factors, is long and detailed. Those interested in reviewing the rationale for the different elements in the methodology are urged to read the Warren decision, in which a cogent statement of the rationale, as well as some discussion of rejected alternative approaches, is provided.

The fair share allocation process is made up of three elements: (1) the determination of the needs to be allocated; (2) the identification and quantification of allocation factors or criteria; and (3) the framing of a formula by which those criteria are used to allocate lower income housing needs to any municipality.

A- Need Factors

There are three need factors in the allocation process: ~~indigenous housing need, and two separate components of regional housing need.~~

(1) Indigenous Need This need is the number of households in the community living in deficient housing conditions. In order to quantify this need, using Census data, three measures were used as "surrogates" of housing deficiency generally: overcrowding, deficient plumbing, and deficient heating. These surrogates were then adjusted to reflect the number of non-lower income households living in such substandard conditions, estimated to be 18% of all such households. Indigenous housing need in Princeton Township, based on 1980 Census data, after elimination of the overlap between categories, is as follows:

Overcrowded, not otherwise deficient	48
Inadequate plumbing, not overcrowded	29
Inadequate heating, not overcrowded	<u>119</u>
	196
less non-lower income households in substandard housing (18% of total)	(35)
TOTAL INDIGENOUS HOUSING NEED	161 UNITS

(2) Reallocated Present Needs This represents the number of units reallocated out from core cities, for the reasons given in the Mount Laurel II decision and cited earlier. The region in which Princeton Township is located, for the purpose of determining present need, is made up of Burlington, Camden, Gloucester, and Mercer Counties. The total regional present need to be reallocated is 489 units.

(3) Prospective Housing Need: Prospective housing need represents the number of additional lower income households projected to be added to the total number of households within the region between 1980 and 1990. It is determined by projecting the total number of households, and dividing that total between lower income and non-lower income households on the basis of the 1980 household income distribution. The projection used for this purpose is the average of the two "preferred" projections of the Office of Demographic and Economic Analysis in the New Jersey Department of Labor. The region used for purposes of prospective need is what is known as a watershed region in this case, it is defined as the entire area, any part of which can be reached by a driving time of 30 minutes from Princeton Township. In this case, this includes the counties of Burlington, Hunterdon, Mercer, Middlesex, Monmouth and Somerset. The total regional prospective housing need to 1990 to be allocated among the municipalities in this region is 7,358 units.

Princeton Township's indigenous housing need, combined with its fair share of each of the two regional housing need components, represents the municipality's total fair share housing obligation under the Mount Laurel II doctrine.

B. Allocation Factors

Three allocation factors are used to allocate both present and prospective housing needs:

Growth area acreage: The acreage within the SDGP Growth area located within the municipality, which reflects the physical capacity of the community to accommodate growth.

Employment: The total number of jobs within the municipality, as reported by the New Jersey Department of Labor.

Median income ratio: The ratio between the median household income in the municipality and that in the region, which reflects wealth and fiscal capacity.

A fourth factor, employment growth from 1975 to 1985, is used only in the prospective need allocation process. These factors are consistent with the language in Mount Laurel II, which notes that

[Fair share] formulas that accord substantial weight to employment opportunities in the municipality, especially new employment accompanied by substantial rateables, shall be favored (at ¶56).

With regard to growth area acreage, employment, and income, the procedure to be followed is to determine the regional total, the total for Princeton Township, and the percentage of the regional total represented by the Township. With regard to median income, the ratio between the median household income in the Township, as determined by the 1980 Census, and that of each of the two regions is determined, and utilized in the formula. The actual data for each factor is shown in the table on the following page.

C. Allocation Formula

In addition to application of the allocation factors, the formula adds three elements which affect the final fair share allocation figure:

Phasing of reallocated present need: Since it can be expected that the reallocation of present need will be a gradual process, the formula phases it over three six-year allocation periods. Thus, only 1/3 of the reallocated present need is included in the 1990 fair share allocation.

Adjustment for re-allocation of fair share: Since many municipalities will lack enough vacant land to accommodate their fair share, each allocation is increased by 20% to provide directly in the formula for the reallocation that would otherwise be necessary, but which would be technically unfeasible.

 TABLE OF PRINCETON TOWNSHIP FAIR SHARE ALLOCATION FACTORS

1. NUMERICAL COEFFICIENTS

	PRINCETON TOWNSHIP	PRESENT NEED REGION	PROSPECTIVE NEED REGION
Growth Area	7446 Acres	379,867 Acres	630,011 Acres
1982 Employment	2899 Jobs	324,485 Jobs	580,032 Jobs
1972-1982 average annual employment increase (note)	@ jobs	NA	NA
Median household income	\$31602	\$20885	\$23388

II. PERCENTAGES/RATIOS (PRINCETON TOWNSHIP PERCENTAGE/RATIO)

	PRESENT NEED REGION	PROSPECTIVE NEED REGION
Growth area	1.96*	1.18%
1982 employment	@.89*	0.58%
1972-1982 employment increase	NA	0
Median income RATIO	1-51 to 1	1.35 to 1

Adjustment for vacancy rates A further 3% is added to each allocation component to allow for a minimum vacancy rate within the pool of housing to be provided.

The actual formula calculations are presented on the following page. It will be noted that the initial 'run' of the formula is to determine the adjustment that must be made to the formula for the median income factor? i.e., to convert the ratio given above to a percentage. The formula is then rerun with the income adjustment included. All of the coefficients come either from the table above, or from the three adjustments described above.

The formula yields the fair share allocation for Princeton Township prior to any accounting of credits for lower income housing provided within the township, a matter which is discussed in the following section of this Report.

 COMPUTATION OF PRINCETON TOWNSHIP FAIR SHARE ALLOCATION

INDIGENOUS NEED 161

Calculation of reallocation of present needs

$$1.96 + 0.89 / 2 = 1.425 \times 1.51 = 2.15$$

$$1.96 + 0.89 + 2.15 \div 3 = 1.667 \times 4892 \cdot 82$$

$$82 / 3 \ll 27 \times 1.2 \gg 32 \times 1.03 - 33$$

REALLOCATED PRESENT NEED 33

Calculation of prospective needs

$$0.50 + 1.18 \cdot a / 3 \cdot 0.56 \times 1.35 - 0.76$$

$$0.50 + 1.18 + 0 + 0.76 \div 4 - 0.61$$

$$0.61 \times 70388 = 429 \times 1.2 \ll 515 \times 1.03 \ll 530$$

PROSPECTIVE NEED ALLOCATION 530

TOTAL FAIR SHARE HOUSING ALLOCATION -724

III^ADJUSTMENTS TO FAIR SHARE <CREDIT|>

The availability of potential adjustments, specifically in the form of credit for prior provision of lower income housing, to the fair share is explicitly recognized in the Warren decisions

It Cthe fair share methodology! acknowledges that some towns have made inclusionary efforts - and so rewards them through the use of the median income factor and by direct credits where appropriate (at 77)

Prior to 1980, Princeton Township has permitted a substantial number of lower income subsidized housing units to come into being. Although these units cannot be counted on a 1 to 1 basis toward Princeton Township's post-1980 fair share obligation, to the extent that ~~trurraverr^T^he stock of subsidized housing makes lower income housi~~ available during the fair strar^perT^d through 1990, they can reasonably be counted. Any lower income subsidized housing units provided subsequent to 1980 would, of course, be counted toward the fair share goal on a 1 to 1 basis.

This "tcreditv however, is subject I to one lXmitation.

Prospective housing need, in the fair share formula, is made up of the net increment in lower income households within the region during the fair share period. In order to meet the full extent of prospective housing need, common sense dictates that there must be an increment of lower income housing units equal to or greater than the increment in households. Since the prospective need projection period began in 1980, only units added to the lower income housing stock since 1980 represent contributions to that net increment. It is therefore not appropriate to take credits for turnover of pre-1980 units in excess of the municipality's present need, both indigenous and reallocated*.

A. Federally-Subsidized Units

In Princeton Township there are 339 Federally-subsidized lower income housing units, 100 in Redding Terrace, and 239 in Princeton Community Village, in analysis of turnover in public housing in Princeton during the past three years, provided by the Housing Authority, yielded an annual turnover rate of 5.83%. Applying that rate to 339 units, we obtain:

$$339 \times .0533 = 19.8 \text{ units per year}$$

Over the ten year period from 1980 through 1990, therefore, the projected turnover from the Federally-subsidized housing units is 20 units. All of these units will be occupied by lower income households, and therefore, subject to the limitation above, represent a legitimate credit against the Township fair share allocation.

B. University Housing [A]

There are three types of university housing in Princeton Townships dormitories, faculty/staff housing, and married/family graduate student housing.

(1) Dormitories are considered group quarters for purposes of Census classification, and the residents of dormitories, along with other institutionalized populations, are not considered members of households. Since the fair share need assessment includes only the households in need of housing, they are not appropriately included.

*If the sum of available credits exceeds the present need allocation, the Township may be able to credit the excess against that part of the reallocated present need which, under the Warren formula, has been deferred beyond 1990.

***Separate data for Princeton Community Village has not been obtained. It is unlikely to be significantly different than that applicable to the public housing in the Township.

In any event, many if not most of the Princeton dormitory residents are actually members of non-lower income households, whose household heads reside elsewhere.

(2) Faculty/staff housing is housing in the sense of the Census definitions, but it is unknown whether the residents of this housing are lower income households. Absent reliable data confirming both current and long-term lower income occupancy of this housing, these units should not be considered credits to the Township's fair share.

C3) Married/family graduate student housing is housing subsidized by the University, with rents ranging from \$189 to \$254 per month in the Butler Tract, to \$320 to \$383 per month in the Lawrence Apartments. Excluding superintendent units and units undergoing renovation, there are 393 such units in the Township. Although it is unlikely that all graduate students living in these units are lower income households, it is reasonable to assume that a large number, and arguably a majority, are independent households of low or moderate income.

It is impossible to arrive at a scientifically precise number of graduate student units to treat as a credit. As far as turnover is concerned, given the nature of the population, it is likely to be 100% or more during a ten year period, and even that much within the shorter six year period from 1984 to 1990. If we assume, for the sake of argument, that 1/3 of the households are not lower income by virtue of their own efforts (as would be the case where the student's spouse holds a fulltime job); that 1/3 are supported by parents or others, the remainder would be 1/3 of the total or 131 units. This could be adjusted, of course, if precise data were to be made available.

The summary of potential adjustments to the fair share, or credits, is as follows:

FAIR SHARE HOUSING ALLOCATION	724
Less Federally-Subsidized housing turnover	(200)
Less 1/3 graduate student housing turnover	(131)
Adjusted allocation (before limitation)	393

Since, as discussed above, that number is smaller than 530, which is the prospective need allocation for the Township, THE RESULTING FAIR SHARE ALLOCATION AFTER ADJUSTMENTS FOR PRINCETON TOWNSHIP SHOULD BE 530 UNITS. The possibility of crediting the excess 109 units after 1990 remains.