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STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

MM000007Z

EXECUTIVE ORDER NO. 35

WHEREAS, there exists a serious shortage of adequate, safe and sanitary housing accommodations for many households at rents and prices they can reasonably afford, especially for low and moderate income households, newly formed households, senior citizens, and households with children; and

WHEREAS, it is the policy of the State of New Jersey, as reflected in numerous acts and programs, to alleviate this housing shortage; and it is the law of the State of New Jersey that each municipality, by its land-use regulations provide the opportunity for the development of an appropriate variety and choice of housing for all categories of people, consistent with its fair share of the need for housing in its region; and

WHEREAS, it is the policy of the State that local government should be the primary authority for planning and regulating land-use and housing and housing development; and that the State shall provide appropriate assistance to local governments so that municipalities can meet their obligation to provide an opportunity for the development of an appropriate variety and choice of housing for all categories of people, consistent with the municipality's fair share of the need for housing in its region; and

WHEREAS, the laws of the State of New Jersey (P.L. 1944, c. 85; P.L. 1961, c. 47 P.L. 1966, c. 293; P.L. 1967, c. 42) authorize the Division of State and Regional Planning to conduct comprehensive planning, to plan for housing needs, and to provide planning assistance to local governments; and

WHEREAS, continuation of financial assistance by the federal government to the State for comprehensive planning under section 701 of the Housing Act of 1954, as amended by the Housing and Community Development Act of 1974, is contingent upon the Division of State and Regional Planning carrying out an ongoing comprehensive planning process, including, as a minimum, preparation of a housing element and land-use element by August 22, 1977;

NOW, THEREFORE, I, BRENDAN BYRNE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the statutes of this State, do hereby ORDER and DIRECT that:

1. The Director of the Division of State and Regional Planning, in accordance with the provisions of this Order, shall prepare State housing goals to guide municipalities in adjusting their municipal land-use regulations in order to provide a reasonable opportunity for the development of an appropriate variety and choice of housing to meet the needs of the residents of New Jersey.

2. The Director shall allocate housing goals pursuant to this Order, as expeditiously as feasible, but no later than 10 months from the date of this Order and no later than 2 years after each future decennial census. Periodically the Director may reevaluate the adequacy of the current State housing survey and may make appropriate changes in housing goal allocations.

3. The Director shall complete a housing needs study which takes into account:

- (a) the existence of physically substandard and overcrowded housing in the State;
- (b) the existence in the State of households paying a disproportionate share of income for housing; and
- (c) other factors as may be necessary and appropriate.

4. All agencies of State Government shall cooperate with the Director and furnish such copies of any data, reports or records as may be required by the Director to discharge the responsibilities under this Order and as may be available in accordance with applicable law and regulations.

5. The State housing need as determined by the housing needs study shall serve as the basis upon which the Director shall formulate a "State Housing Goal" and allocate this goal to each county or group of counties. The formulation of the State housing goal, to the extent the Director deems appropriate, shall take into account the capacity of the public and private sector to ameliorate the State housing need within a reasonable time period. The Director also may announce the State housing goal in time stages.

6. a. The Director, in allocating this goal to each county or group of counties, shall take into account the following:

- (1) The extent to which housing need exists in each county or group of counties.

- (2) The extent to which employment growth or decline has been experienced in each county or group of counties.
- (3) The extent to which the fiscal capacity to absorb the housing goal exists within each county or group of counties.
- (4) The extent to which appropriate sites to provide for the housing goal exist within each county or group of counties.
- (5) Other factors as may be necessary and appropriate.

b. Consistent with these standards, the Director may suballocate the housing goal or goals of a county or group of counties to groups of contiguous municipalities comprising major geographic areas of a county or group of counties.

7. The housing goal allocated to each county shall specify a minimum number of housing units economically suitable for different segments of the population for which an adequate range of appropriate sites should be made available within the county. Appropriate sites include any land or residential structure that is suitable or amenable to providing a location for housing development, redevelopment, rehabilitation, or program of assistance for existing housing.

8. The Director, except as provided in Section 9 of this Order, shall allocate each county housing goal among the municipalities in a county and each housing goal for a group of contiguous municipalities selected pursuant to Subsection 6 b. of this Order among the municipalities within such a group. This allocation of a county housing goal among municipalities in a county or a group housing goal among the municipalities in a group of contiguous municipalities selected pursuant to Subsection 6 b. of this Order shall take into account the following factors.

- (a) The existence at the municipal level of physically substandard and overcrowded housing.
- (b) The existence at the municipal level of households paying a disproportionate share of income for rent.
- (c) Past, present and anticipated employment growth and relative access to these employment opportunities by

low and moderate income workers.

- (d) Relative availability of appropriate sites for housing on a municipal basis.
- (e) Relative capacity of municipalities to absorb additional housing units as measured by fiscal capacity.
- (f) Relative municipal shares of low and moderate income households, and anticipated change in such households.
- (g) Past, present and anticipated residential and non-residential municipal growth patterns.
- (h) The existence of a county development plan as it relates to fair share housing needs in that county.
- (i) Other factors as may be necessary and appropriate.

9. The Director may delegate to a county planning board the authority to allocate the county housing goal among the municipalities in the county and any housing goals for groups of contiguous municipalities selected pursuant to Subsection 6 b. of this Order among the municipalities within such groups. Such county planning board allocation shall conform to the standards in Section 8 of this Order and appropriate guidelines provided by the Director. If a county planning board does not allocate the municipal housing goals in a reasonable period of time, as determined by the Director and consistent with the time periods of Section 2 of this Order, or if the Director determines that the allocations do not conform to the standards in Section 8 of this Order and the guidelines provided by the Director; then the Director, consistent with the standards of Section 8, shall perform the housing goal allocation which had been delegated to the county planning board.

10. (a) The Director may promulgate the allocations required pursuant to Section 8 of this Order and may authorize a county planning board to promulgate allocations pursuant to Section 9 of this Order in time stages which give a priority to the promulgation of allocations for developing municipalities.

(b) The Director may promulgate the allocations required pursuant to Section 8 of this Order and may authorize a county planning board to promulgate the allocations required pursuant to

Section 9 of this Order by initially promulgating collective allocations to small groups of contiguous municipalities which individually would receive relatively low allocations pursuant to Section 8 of this Order.

11. The Director shall provide opportunities for the public, other agencies of State government; and regional, county, and municipal planning agencies to comment on the determinations of housing need and the allocation of housing goals pursuant to this Order.

12. State officials administering state and federal programs providing grant and loan aid and technical assistance to municipalities and counties for open space preservation, sewerage improvements, community development, local program management and comprehensive planning, housing development and demonstration projects, housing finance, interlocal services; and the construction, repair, and maintenance of municipal and county roads and bridges; local street lighting projects, and programs supporting public transportation shall, in accordance with existing law and for purposes of providing incentive aid consistent with the objectives of this Executive Order, give priority where appropriate to municipalities which are meeting or are in the process of meeting a fair share of low and moderate income housing needs. State officials participating in regional planning activities and regional clearinghouse review and comment decisions on municipal and county applications for federal funding shall take into account whether a municipality or group of municipalities is meeting or in the process of meeting a fair share of low and moderate income housing. Any municipality in which a disproportionately large share of low and moderate income households resides and which is making an effort to improve housing conditions shall not be assigned a lower priority under the provisions of this section.

13. The Director may establish procedures and guidelines for determining whether a municipality has reasonably accommodated its municipal housing goal, as determined pursuant to this Order, and may report periodically on the progress of municipalities in complying with their respective allocations.

14. The Director of the Division of State and Regional Planning shall continue to prepare comprehensive housing and land-use plans for guiding development decisions in this State. This comprehensive planning activity, consistent with the fair share housing objectives of this Order, shall continue to be a part of the housing and land-use programs of this State.

GIVEN, under my hand and seal this
2nd day of April,
in the year of Our Lord, one
thousand nine hundred and seventy-
six of the Independence of the
United States ~~the~~ two hundredth.

/s/ Brendan Byrne
GOVERNOR

[seal]

ATTEST:

/s/ John J. Degnan

Executive Secretary to the Governor