

NEW JERSEY

NJ towns fighting affordable housing mandate file lawsuit in federal court



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Take a look at the history of affordable housing in New Jersey: Video
Take a look at North Jersey's history with affordable housing over the last 50 years.

Key Points

- A consortium of 27 towns has filed a federal lawsuit trying to halt New Jersey's affordable housing mandate.
- The Fair Share Housing Center says it has reached agreements with all but seven of 440 towns in the program.

A consortium of more than two dozen New Jersey towns trying to halt the state's affordable-housing mandate — which has ignited a wave of development throughout the state — is taking the battle to federal court.

Citing new legal filings that they claim "reveal backroom deals between state officials and special interests while suburban families were left out," the towns filed a new lawsuit Thursday in New Jersey's U.S. District Court.

Naming state Attorney General Matthew Platkin and acting Director of the Administrative Office of the Courts Michael Blee as defendants, the lawsuit seeks injunctive relief from the enforcement of current affordable housing laws, and a declaration that those laws violate the state constitution.

The lawsuit brings federal equal protection claims against the Urban Aid Classification, which they say "imposes new unit affordable housing obligations upon suburban municipalities, while exempting so-called urban aid municipalities from having any new unit obligations whatsoever."

"Every community should do its part — but Trenton's suburb-only housing plan just isn't fair," Montvale Mayor Mike Ghassali said in the lawsuit announcement. "We are in federal court because our communities are not receiving equal protection under the law with Trenton's housing mandates."

Montvale is among the 27 towns in the consortium, organized as the Local Leaders for Responsible Planning, who so far have seen a state judge in Mercer County [reject two attempts to halt implementation](#) of the mandate.



A complex of 44 units of all affordable housing under construction in Madison, a \$20 million project funded in part by a federal Community Block Grant. *Provided By Madison*

Montvale is also one of just seven towns left in the state that have not

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reached a compromise in mediation with the Fair Share Housing Center on the number of affordable housing units they will be required to build over the next decade. Montvale will join the other holdouts — Hillsborough, North Arlington, Old Bridge, Readington, Toms River and Warren Township — as their final determinations will be decided by the state's new Affordable Housing Dispute Resolution Program.

New Jersey's affordable housing mandate dates back to 1975, when the state Supreme Court ruled in favor of the plaintiff in *Southern Burlington NAACP v. Township of Mount Laurel* on March 24, 1975. It was meant to outlaw "exclusionary zoning" and require all state municipalities to provide their "fair share" of the area's affordable housing. The civil rights case set up one of the country's strongest efforts to prevent residential segregation.

A lengthy period during which the mandate was not enforced led to another state Supreme Court decision in 2015, when the court ruled that the judicial system would be responsible for compliance by municipalities going forward. Since then, leaders of many suburban towns have been forced to accommodate developers looking to build large projects as long as those builders would commit a portion of their project to qualified units of affordable housing.

"Since Mount Laurel in 1975, who's made out on this?" said Mount Arlington Mayor Michael Stanzilis. "Engineers, planners and attorneys. Some builders. But it's mostly a cottage industry perpetuating the litigation of this thing forever."

[New legislation signed by Gov. Phil Murphy in 2024](#) helped to streamline the process rather than slow it down, as the consortium lawsuits have tried to do.

More towns settle on 'fair share' of units

The Fair Share Housing Center, a nonprofit agency empowered to assist courts in enforcing the mandate, has reached housing settlements with 372 municipalities in New Jersey.

Wednesday, just hours before the consortium filed its federal lawsuit, the center announced that it had resolved issues with 61 more towns, bringing the total in compliance with the affordable housing planning process to 440.

"We're thankful that the vast majority of New Jersey's municipalities are moving forward with creating much-needed affordable housing," Adam Gordon, executive director at the Fair Share Housing Center, said in announcing the latest resolutions. "This process validates the intent of New Jersey's new affordable housing law — making the process more transparent, reducing litigation costs, and ultimately encouraging more municipalities to participate."

Supporters of the push to build cite what they see as an "affordable-housing crisis" in New Jersey and throughout the nation.

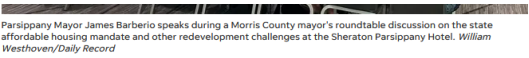
Since the inception of the Mount Laurel Doctrine 50 years ago, the process has led to the creation of over 75,000 affordable homes — including over 25,000 new affordable homes since 2015 alone — and over 130,000 middle-class homes, Gordon said. "Today, more than 400,000 New Jerseyans live in homes created through the Mount Laurel Doctrine."

But the leaders of the towns in the consortium say the mandate has created an unmanageable process that is forcing towns to overbuild, stress infrastructure and alter the established character of some towns that predate the American Revolution.

"We are speaking out to protect the character of our neighborhoods," said Ghassali, the Montvale mayor. "We're standing up for the moms, dads, and seniors who want good schools, safe streets and open space."

Urban Aid Classification challenged





The new federal lawsuit specifically questions current law that established the Urban Aid Classification, which it says "imposes a prospective need affordable-housing obligation upon non-urban aid municipalities, while exempting urban aid municipalities from having any prospective need obligation."

The Urban Aid Classification that was adopted by the New Jersey Legislature "violates the equal protection clause to the United States Constitution and its analogue in the New Jersey Constitution," the lawsuit says.

"The Urban Aid Classification was initially developed by the state courts 40 years ago, when 102% of population growth occurred in non-urban aid municipalities and -2% occurred in urban aid municipalities," a consortium statement reads. "But today, New Jersey's population growth is split 50/50 between urban aid and non-urban aid municipalities, with robust population growth in the urban aid municipalities, demonstrating how the classification is now arbitrary and capricious."

The new lawsuit also accuses the state of "issuing rules without any notice or comment after spending months conferring with the FSHC and New Jersey Builders Association, when these are the two principal entities that are fighting New Jersey's communities on their affordable housing calculations."

The Builders Association, a nonprofit that supports residential and commercial builders, developers, remodelers, subcontractors, suppliers, engineers, architects, consultants and other professionals in "the shelter industry," [filed its own legal challenges last month](#) against 159 municipalities. Those towns had filed complaints with the state Department of Community Affairs seeking to lower housing obligations the agency released last year, the builders said.

"There is no fairness when the state conspires with builders and housing special interests to write affordable housing rules, all without any input from our communities," Ghassali said. "Making matters worse, the new law then lets these special interests use those rules against the municipalities that are regulated by them."

Consortium towns in opposition

The Local Leaders for Responsible Planning consortium includes the following municipalities:

- Bergen County: Allendale, Closter, Franklin Lakes, Hillsdale, Montvale, Norwood, Old Tappan, Oradell, Washington Township, Westwood and Wyckoff
- Morris County: Denville, East Hanover, Florham Park, Hanover, Mendham, Montville, Parsippany and Wharton
- Essex County: Cedar Grove and Millburn
- Hunterdon County: West Amwell
- Monmouth County: Wall and Holmdel
- Passiac County: Little Falls and Totowa
- Salem County: Mannington
- Somerset County: Warren



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