

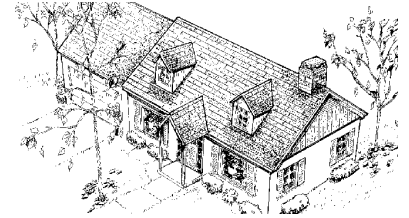


A Professional Perspective

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Affordable Housing Professionals of New Jersey

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AHPNJ is an independent organization whose mission is to promote and enhance professionalism and knowledge in the field by supporting affordable housing through dialogue, ethical standards, education,

Life after COAH:

There has been a lot of news, recently, about the demise of COAH (New Jersey Council on Affordable Housing), under which the lion's share of affordable housing has been built in New Jersey over the last 25 years. In September, Governor Christie officially dissolved this 12-member Board and reorganized its functions in the Department of Community Affairs.

This brief article will provide some guidance for the many owners, tenants and applicants of affordable housing, who have questions and concerns about how the reorganization affects them.

COAH was created under the Fair Housing Act in 1985 to help municipalities meet their constitutional obligation to provide opportunities for low- and moderate- income housing. The State estimates that more than 60,000 homes were created for sale or rent under the Fair Housing Act, and another almost 15,000 were rehabilitated.

Affordable homes and rental apartments created under the Fair Housing Act have recorded deed restrictions that "run with the property," requiring the owner to maintain the status of the unit as an affordable home for a specified length of time – sometimes in perpetuity. In addition to the specific requirements set forth in a particular deed restriction, most affordable homes (sales and rentals) are regulated under the Uniform Housing Affordability Controls (N.J.A.C. 5:80-26.1 et. seq.) - a body of regulation fondly referred to as UHAC that is governed by the New Jersey Housing and Mortgage Finance Agency.

Among other things, the deed restrictions and "UHAC" regulations:

1. Require the Affirmative Marketing of affordable units;
2. Require all affordable housing units be

By Frank Piazza

3. Limit the price of sales units at resale;
4. Limit the amount of a mortgage for sales units when refinanced;
5. Limit the annual increases in rent for tenants, and set rental rates for vacant apartments;
6. Require buyers of sales units and applicants for rental units to be income qualified and certified as such by an administrative agent;

An Update for Owners, Tenants and Applicants of Affordable Housing

7. Prohibit the rental of sales units, and regulate the sale of rental units;
8. Regulate the modification of affordable units; and
9. Require all affordable housing units to be monitored by the municipality in which they are located.

None of these requirements were dissolved with COAH. Rather, the responsibility to enforce them was transferred from COAH to the Department of Community Affairs (DCA).

To this end, a new entity within the DCA was established: Local Planning Services of the Fair Housing Act Administration. So, if you own an affordable home, you are still required to fulfill your responsibility under the deed restrictions and the law. If you have an ownership unit, it must be your principal residence, and you must contact your Ad-

Continued on page 2

Frank Piazza

President of Piazza & Associates, Inc.
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Please send your questions and comments to:
Info@HousingQuest.com

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From the President by Randall Gottesman, P.P.***Happy New Year Everyone.***

So much has happened in 2011, and so much more is anticipated for 2012 within the world of Affordable Housing. AHPNJ is very proud of its 2011 accomplishments, as well as those since our inception five years ago. Please take a look at our first ever Annual Report, as it includes an excellent overview since our inception in 2006; far better than I could possibly summarize in this brief introduction to our Winter Newsletter. You can find our Annual Report at <http://www.ahpnj.org/AnnualReport2011.pdf>. I hope it will motivate each of you to not only stay as a member, which more than 90% of you do each and every year, but also inspire you to help AHPNJ further by either inviting a co-worker or other interested party to join, and/or to become even more active in 2012. We need your input and involvement. Many hands make light(er) work, and with all the issues expected to be facing our industry in 2012, whether you are an administrative agent, an attorney, a planner, a community development official, a developer or any other interested party, we need to know your perspective on these issues. By working together we can better become a positive voice for the affordable housing industry and continue to

provide worthwhile benefits to our members. The most common refrain I hear from involved members is that membership became more personally rewarding once they decided to become more active in AHPNJ. They often cite the amazing contacts that they now have and can utilize as resources, and the invaluable informal education, as we learn from each other while debating and discussing various topics, laws, regulations, etc. So, in addition to attending the informative breakfast meetings, ½ day workshops, or poring over our highly detailed e-bulletins and periodic newsletters, please consider the personal, professional, and industry benefit potential for you in the coming year and resolve to make an even stronger commitment in 2012 – join an AHPNJ committee and/or come to one or more of our events. Thanks to every one of our members, our sponsors, our Board of Directors, and all of the other hard working volunteers and paid staff for your support throughout 2011 and we look forward to a very productive 2012. Meanwhile and always, peace be with you, and best wishes to a happy and healthy New Year.

Sincerely, Randall Gottesman, P.P.
President

Thank you to our Volunteers!**Programs:**

Heather Mahaley, *Program Committee Chair*
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Frank Piazza, Barbara Walsh, Steve Weinberg,
Susan Ucci

Life after Coah by Frank Piazza***Continued from cover page***

ministrative Agent to sell, refinance or modify your home. If you are a landlord of an affordable rental unit, your tenants must be certified by the Administrative Agent, and your rents and rent increases must comply with the law. If you are an applicant, you must submit to the income certification process coordinated by the Administrative Agent. New affordable housing units continue to be

built throughout the State, even in the absence of COAH. The constitutional obligation remains, as does the Fair Housing Act, the Uniform Housing Affordability Controls, as well as an extensive body of Local Affordable Housing Plans and Ordinances. So, for the moment, the more things change, the more they seem to stay the same.

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Meet Our Featured Sponsor: RPM DEVELOPMENT

By Brendan McBride

The role of sustainability in affordable housing has evolved immensely over the last decade. An affordable housing developer based in Essex County, RPM Development has gradually come to see “green building” play a significant and defining role in the work they do. Several RPM projects show the growing role that sustainability can play in affordable housing, but the recently-opened Grand Central project in Orange provides a unique example of how affordable housing projects can be on the forefront of green building.

In business for over two decades, RPM has focused on including sustainable elements in its projects for much of its history. Starting in 1998, the company was one of the pioneer participants in the Energy Star program, which used subsidies to encourage energy optimization and efficiency increases in buildings nationwide.

Becoming an experienced Energy Star builder established the foundation for RPM to build according to LEED standards, which impose a higher standard of sustainability than Energy Star. The company completed its first LEED certified project in 2009 with Berry Street Commons in Franklin Twp., Somerset County, a 94 unit family affordable development in the Churchill Millstone Redevelopment Area. The project featured high-energy heating and cool systems, bike racks, solar power for the common areas, and other features that garnered it a LEED Platinum certification – the first of its kind for the LEED for Homes program in New Jersey.

Berry Street Commons set the tone for further LEED development, followed by projects in other towns including Franklin Blvd Commons in Franklin Twp., Roseville Commons and Studebaker Lofts in Newark, and Market Fair in Camden, all of which won either platinum or gold LEED certification.

The Grand Central project in Orange presented an opportunity to build on lessons learned in earlier projects and test out innovations in sustainability, especially those relating to increas-

ing energy efficiency. The project – 70 units located in downtown Orange, NJ – derived part of its funding from the Climate Choice program of the Board of Public Utilities, which incentivizes building to very high energy standards (see below). The project allowed RPM to test out state of the art methods of sustainable building while attracting capital to the project. Below are some photographs of the project and the methods used to build green – a practice whose role will only continue to grow as affordable housing moves further into the 21st century.

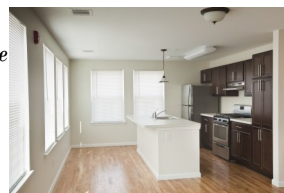
First Multi-Family building in the State under the Climate Choice Program, Grand Central is 70% more energy efficient than a building built to standard building code. The project is also located within ¼ miles of three NJ Transit train Stations and one block from connecting bus transportation.



Over half of the electricity and hot water needs for the building are generated by solar power. Grand Central was largely built using sustainable and non-toxic materials, including hardwood floors, recycled wood cabinets, low VOC Paints .



The building's insulation reduces the amount of internal, conditioned temperature loss to outside temperature. It is more efficient than Energy Star, with a typical roof R-value of R -60 compared to R-30 for Energy Star.



For more information about RPM Development visit www.rpmdev.com



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Barbara Walsh Executive Director at
ahpnjed@comcast.net or
609-310-6070
visit us on the web, at
www.AHPNJ.org

Assessing NJ Affordable Housing Units By Edwin Schmierer, Esq.

From time to time, Municipal Administrative Agents ("AA") will run into a problem with their local Tax Assessor concerning the proper way to assess affordable housing units. This issue has been addressed by the Courts in New Jersey.

Valuation of affordable housing units for local property tax purposes was initially considered by the New Jersey Tax Court in Prowitz vs. Ridgefield Park Village, 10 N.J. Tax 103 (1988). In that case, taxpayers appealed judgments of the Bergen County Board of Taxation affirming 1986 local property tax assessments on their affordable housing condominium units. The taxpayers claimed that the affordability restrictions on resale should be considered in determining their assessed value. The taxpayers argued that reduced assessment values would be in accordance with the public policy of supporting affordable housing in New Jersey as set forth in the New Jersey Fair Housing Act, *N.J.S.A. 52:27D-301 et seq.* The Tax Court rejected that argument relying on Article VIII, Section 1, Paragraph 1, of the New Jersey Constitution of 1947 for the proposition that all real property must be "assessed according to the same standard of value" and on the implementing legislative mandate that the referenced standard is "true value" pursuant to *N.J.S.A. 54:4-2.25*. The New Jersey Tax Court cited case law to support its determination that the value of the land is what must be assessed, and that life tenancies, remainder interest, mortgage/mortgagee interest and the like are restrictions on title (not land) and are not separately assessed. See Trustees of Llewellyn Park vs. West

Orange Township, 224 N.J. Super, 342 (App. Div. 1988). The Tax Court acknowledged limited exceptions to the foregoing in the case of certain easements which would be considered restrictions on land but found that affordability restrictions in this case do not fall into the same category and constitute a restriction on title.

One (1) year later, this New Jersey Tax Court decision was overruled by the New Jersey Superior Court, Appellate Division, on appeal in Prowitz vs. Ridgefield Park Village, 237 N.J. Super, 435 (App. Div. 1989). In this Appellate Division decision, subsequently affirmed by the New Jersey Supreme Court at 122 N.J.199 (1991), the Appellate Division agreed with the arguments advanced by the taxpayers and held that a local property tax assessment of an affordable housing unit was required to take into account the deed restrictions which in order to maintain the unit's affordable housing status limited resale value. Id. at 437. The Court noted in its decision that: (1) the undeniable affect that the deed restriction has on the full and fair value of the property has to be recognized; and (2) the finding that the deed restriction limited the land, not title, as the Tax Court below had concluded was wrong and that the deed restriction had a depreciating effect on value analogous to a value-depreciating easement or government regulation. In the Prowitz decision, the Appellate Division further noted:

The deed restriction limiting resale price constitutes a patent burden on the value of the property, not on the character, quality or extent of title. It is,

moreover, a restriction whose burden on the owner is clearly designed to secure a public benefit of overriding social and economic importance, namely, the maintenance of this State's woefully inadequate inventory of affordable housing. Id. at 443.

In view of the Prowitz decision, the local Tax Assessor must take into consideration the affordable housing deed restriction when placing an assessment on an affordable housing unit. AAs should be aware of this and should check to make sure that their municipality is properly assessing their affordable housing units.

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Edwin W. Schmierer, Esq.

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Keep Elected Officials Involved in A H Projects By Susan Ucci

Keeping Elected Officials Aware of and Involved in Affordable Housing Projects – and Some Tools to Do This

If you have seen the movie “You’ve Got Mail” then you probably recall the advice that Tom Hanks gave to Meg Ryan when she was trying to save her neighborhood book store from extinction – “Go to the Mattresses”. Translation – fight, fight, fight for your cause. It is time we do the same to save funding for affordable housing. Without funds it is difficult, if not impossible, to produce or maintain an affordable housing stock.

Unfortunately budget cuts are becoming the norm rather than the exception. Legislators may make some serious cuts to, and even eliminate Federal Programs administered by the U.S. Department of Housing & Urban Development (HUD), such as:

- HOME Investment Partnership Program – 25% to 50% below 2011 funding levels;
- Community Development Block Grant (CDBG)- 15% below 2011 funding levels;
- Housing Counseling – 68% below 2010 funding level;
- Public Housing Capital Fund – 8% below 2011 funding levels;
- Project & Tenant Based Rental Assistance- Proposed underfunding may cause up to 25,000 vouchers to be lost.

State funds and programs are also being scrutinized as well.

To adequately prepare ourselves to take action, we must first gather detailed information, statistics, best practices, maps, pictures, and success stories. The more informed an elected official is, the more likely they are to respond and or act. With regards to an affordable

housing project, elected officials need to succinctly know the following:

- **Who** was the developer & were there any public private partnerships involved;
- **What** was the total project cost & what other funds were leveraged;
- **When** was the project completed & how long did it take;
- **Where** is the project located & who will be impacted as a result (# of jobs created, # of affordable units produced to be occupied by persons making 30% to 50% of area median income, types of services provided, etc.);
- **Why** was this project undertaken - i.e. to meet the needs of the community; to reduce vacant & foreclosed properties, etc.

Elected officials need the above five W’s of an affordable housing project in order to digest the information and determine if it provides an overall value or benefit to their constituents. Experiencing the project firsthand can be much more impactful, as is utilizing a variety of media on multiple occasions. The media might take the form of letters, e-mails, e-vites, social media, videos, testimonials, etc. and should be repetitive. Once is simply not good enough. We need to embrace some simple sales techniques that have been proven to work – the power of threes. A person needs to see something three times before they remember it and act upon it. A simple but effective example of this might be:

1. If they provided support for your project – send them a thank you letter upon award notification;
2. Invite them to a ground breaking/ photo opportunity & provide them

with a fact sheet on the project (details about the funding sources and uses, public private partnerships, # jobs, # units and who they are intended to serve);

3. Invite them to the ribbon cutting/ photo opportunity when the project is complete; provide them with a site tour and the chance to actually meet the occupants who benefit from the project, a construction worker who was employed as a result of this project, or a neighbor who is happy about the improvement to the neighborhood.

Affordable housing professionals need to do a better job of educating elected officials about the affordable housing projects being undertaken, especially if we want funds to be available for this purpose. Having written project details, seeing projects firsthand, and interacting with those served will have lasting effects. This three pronged approach can help transform the elected officials into our allies, if they are not so today. These elected officials can help champion affordable housing efforts because of their increased level of understanding of affordable housing and awareness of the benefits to their constituents, which have been justified by the data & experiences we provided. In essence we will succeed in putting a “favorable face” to affordable housing.

Susan Ucci

Community
Development Program
Director,
City of Elizabeth



From the Executive Director by Barbara Walsh PP/AICP

While we wait for the NJ Supreme Court to act on COAH's Round III Rules we continue to face many challenges, including severe cuts in Federal programs supporting affordable housing, changes in banking regulations limiting access to the finance for acquisition and development of housing, and, specifically in New Jersey, with the elimination of COAH and its functions moved to the Department of Community Affairs, new regulations are being proposed and a new DCA Commissioner will kick-off 2012.

With the Court's release on the foreclosure process, foreclosure will continue to be a hot topic. The new year will also bring hearings on a new State Plan, the State Strategic Plan; changes in UHAC are anticipated; unspent funds in municipal affordable housing trusts may be transferred to the State Affordable Housing Trust Fund come July; and when the NJ Supreme Court finally arrives at a decision, who knows in what direction the Administration and/or the Legislature will go. So as you can see from the report from the AHPNJ Policy Committee, we will be very busy in 2012.

We are ever grateful to those who serve on the Policy Committee, especially Frank

Piazza, its Chair, and Heather Mahaley, our Program Chair, who has spearheaded programs addressing many of these issues and those who help arrange these programs. There are four people in particular who assist me in managing the affairs of the organization: our President, Randy Gottesman, Kathy McGlinchy, who volunteers to administer our finances, Tracy Colburn of Lewis-Chester Associates, Inc, who volunteers to serve as our webmaster, and Alyssa Marchesi of CGP&H, who provides administrative services. I must not forget Colleen O'Hara who faithfully volunteers to serve as our Teller and organizes our Annual Meeting. Thank you all for helping me serve AHPNJ and I want to thank the Board and its Officers, and our Sponsors, for being so responsive when I have called on you. To all I wish a healthy and Happy New Year!

*AHPNJ
Congratulates our
General Counsel,
David A. Weinstein,
Esq. on becoming a
Partner in Archer &
Greiner, P.C. this past September!*



AHPNJ POLICY COMMITTEE

Frank Piazza, Chair

The Policy Committee has been, and will be, incredibly engaged with a myriad of issues, including:

1. Potential Redirection of Development Fees
2. Proposed Amendments to the Procedural Rules
3. Home Mortgage Working Group Roundtable Issues
4. HUD / HOME Rule Changes
5. DCA Utility Allowance Increases
6. UHAC Review and Revisions.

If you are interested in rolling up your sleeves and having your voice heard, contact the chair, Frank Piazza, at fpiazza@PiazzaOnLine.net.

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Sign up for our e-newsletter at info@ahpnj.org

Rutgers CGS Professional Development Committee: Christy Peacock and Diane Clapp, Co-Chairs

In 2011, the AHPNJ Education Committee had several sub-committee meetings with the Rutgers Center for Government Services in order to fulfill the AHPNJ mission of developing an AHPNJ/Rutgers Certification program. With an executed contract in hand, we finalized and committed to a curriculum, determined Continuing Credit Hours for

Continuing Education, and are in the production stages of development of an Overview Manual and its course content as a foundation course. In addition, we are developing a basic Program Eligibility course that defines and explains differences and similarities between the four major entities that promulgate eligibility requirements for

Affordable Housing: HUD, Low-Income Housing Tax Credits, USDA, and UHAC. Please stay tuned as the AHPNJ Board and Rutgers Center for Government Services look forward to the completion of these courses and the roll out of the AHPNJ/Rutgers Certification program in 2012.