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Township of Cranford Affordable Housing FAQ

What is Affordable Housing?

The term affordable housing is used to describe housing, rental or owner-occupied, that is affordable no matter what one's income is. Affordable housing is divided into three (3) income classifications: moderate, low and very low, and is based upon income limits. Income eligibility for affordable housing ranges from \$56,430 for a single person to \$80,614 for a family of four in Region 2 as per the **Affordable Housing Professionals of New Jersey 2019 Affordable Housing Regional Income Limits by Household Size**. Those that live in affordable housing can be teachers/professors, police officers, restaurant workers, etc., including people who live on fixed incomes (like seniors and people with disabilities), low wage working families, and middle-income families. They are our neighbors, and active members of our community.

What Are Very Low-, Low- And Moderate- Incomes in Union County?

The State of New Jersey has not released new income limits since 2014. In addition, there have been no increases in rents, re-sale prices, or the regional asset limit since 2014. Affordable Housing Professionals of New Jersey (AHPNJ) has calculated the 2019 income limits (posted [here](#)). They are:

Region 2 - Essex, Morris, Union, and Warren

	<u>1 Person</u>	<u>1.5 Person</u>	<u>2 Person</u>	<u>3 Person</u>	<u>4 Person</u>	<u>4.5 Person</u>	<u>5 Person</u>	<u>6 Person</u>	<u>7 Person</u>	<u>8 Person</u>
Median	\$70,537	\$75,576	\$80,614	\$90,691	\$100,767	\$104,798	\$108,829	\$116,890	\$124,952	\$133,013
Moderate	\$56,430	\$60,460	\$64,491	\$72,553	\$80,614	\$83,838	\$87,063	\$93,512	\$99,961	\$106,410
Low	\$35,269	\$37,788	\$40,307	\$45,345	\$50,384	\$52,399	\$54,414	\$58,445	\$62,476	\$66,506
Very Low	\$21,161	\$22,673	\$24,184	\$27,207	\$30,230	\$31,439	\$32,649	\$35,067	\$37,485	\$39,904

Moderate income is between 80 and 50 percent of the median income. Low income is 50 percent or less of median income. Very low income is 30 percent or less of median income.

Who is the Fair Share Housing Center, and why are they interested in Cranford?

According to their website, Fair Share Housing Center (FSHC), is a 501(c)(3) non-profit organization founded in 1975, who:

...is the only public interest organization entirely devoted to defending the housing rights of New Jersey's poor through enforcement of the Mount Laurel Doctrine, the landmark decision that prohibits economic discrimination through exclusionary zoning and requires all towns to provide their "fair share" of their region's need for affordable housing.

The mission of FSHC is to end discriminatory or exclusionary housing patterns which have deprived the poor, particularly those presently living in inner cities, of the opportunity to reside in an environment which offers safe, decent, and sanitary housing near employment and educational opportunities.

The courts have mandated that virtually every town in New Jersey provide for affordable housing, and FSHC is a public interest organization who challenges the affordable housing requirements of

municipalities in New Jersey, because they want to step in and set the ground rules to ensure that those of modest incomes are not frozen out of their opportunity to live in a great community like ours.

Why should Cranford agree to a settlement with Fair Share Housing?

Settling with FSHC allows Cranford to remove the cumbersome and often misinterpreted affordable housing decision from the courts. The Affordable Housing litigation process that a Township undergoes is expensive and burdensome. The added requirements and uncertainty of hindering the Township's future with overdevelopment and the uncertain prospect of forcing a municipality to except a court ordered affordable housing plan that would increase our population two- or three-fold is too scary a prospect to gamble on.

FSHC and other non-profit housing advocates have challenged the compliance plans presented by municipalities and have, for the most part, been successful in forcing the municipalities to adopt higher densities than they thought prudent.

Negotiating to reach a settlement with FSHC helps insulate the Township from development plans with high densities far beyond those previously approved in the Township, and far beyond the scope of Cranford's neighborhood character. As long as the Township continues to comply with its Housing Plan, the Township enjoys immunity from any Builder's Remedy lawsuits.

As public stewards of taxpayer funds, the question is whether it is prudent to settle or litigate the case with FSHC. Many communities around the state have spent enormous sums litigating, only to lose their battle in the courts, and have their zoning completely upended. It is upon this knowledge, with the advice of Township affordable housing legal counsel and planning experts, that highlights that a settlement eliminates the potential of a significantly higher number of units that could be ordered through litigation on most developments moving forward.

By settling, Cranford avoids continuing the high costs of litigation for the services of lawyers and planners to fight the battle non-stop and having the possibility of Builder's Remedy lawsuits dangling as a threat to the Township's character; while at the same time controlling where development takes place rather than having the non-profits, the developers, and the court dictate that for us.

What is Builder's Remedy?

A builder's remedy is a court-imposed path for an individual, developer or profit-making entity in which the court requires a municipality to utilize zoning techniques such as mandatory set-asides or density bonuses which provide for the economic viability of a residential development which is not for low and moderate income households. Basically, "builder's remedy" enables builders to file suit to attempt to secure the right to construct housing at higher densities than the municipality would otherwise allow in exchange for a commitment to reserve at least 20 percent of the units for low- and moderate-income households. So, a developer can sue a municipality for the right to build housing that may otherwise not be "financially feasible" given the underlying zoning. When a builder's remedy is granted against a municipality, the town and its planning and zoning boards lose all control over the zoning of the subject property (density, setbacks, etc.), which is left to the special master, who only reports to the court. In short, a developer can ignore and circumvent underlying zoning to provide additional housing units.

What happens if we don't negotiate in good faith and/or settle?

No municipality is required to go to court or settle, but by doing so, a municipality could receive immunity from so-called builder's remedy lawsuits. Without a court-approved housing plan, a community leaves itself open to being sued by a developer who wants to build multi-unit housing in the town. If a judge agrees that a town practices exclusionary zoning, the judge can give the builder permission to construct a development that includes four market-rate units for every affordable one. State-mandated housing policy tends to take a one-size-fits-all approach that doesn't work for local communities, tearing at the neighborhood fiber of Cranford without allowing the Township to have a say in our future footprint.

Builders could ignore our zoning laws and build large developments in town. Picture new residential development with uninhibited density, sprawling around town. This is our biggest concern. We must reach a settlement with FSHC to protect Cranford from over development. In legal terms, we would lose our immunity to builder's remedy lawsuits.

Why now? Why are the courts in control of determining Cranford's Affordable Housing Obligation?

Due to the inaction of our State-level officials, the matter of determining each municipality's obligation has been placed in the court system. COAH (Council on Affordable Housing), an agency in the New Jersey Department of Community Affairs, has failed to establish legally valid rules and numeric obligations for affordable housing since the second round of regulations expired in 1999. There have been years of court battles between the competing interests, affordable housing advocates, the real estate developers' lobby, municipalities and COAH itself over how the rules should be formulated and the methodology by which the local obligations should be established. In March of 2015, the Supreme Court, after numerous orders that COAH establish legally acceptable rules, took back jurisdiction over all affordable housing issues and returned to the county trial courts the responsibilities of determining methodology, affordable housing obligations and compliance with the constitutional obligations of providing affordable housing. This order stripped COAH of any of its administrative powers and forced participating towns into a situation where they have to attempt to determine their own obligations from scratch. This process is ongoing and will likely continue through trial and appeals courts for years to come. It should have been taken care of incrementally throughout the years.

Since the Township is in litigation, we have not been able to publicly disclose details, but have been working towards the best case for Cranford for the past few years. It is time to negotiate a settlement that is reasonable and manageable and ensures against court ordered density surges that would in effect be a forced population increase for Cranford.

What can Cranford residents do to help?

Residents are encouraged to attend the Township Committee meeting beginning at 6 p.m. on November 12, 2019 in the Municipal Building, to hear from the Township's professionals and ask any questions they may have regarding this issue.

The Courts have determined that the constitutional obligation to provide for the development of affordable housing is a continuing obligation, and the "Fourth Round" will commence July 2025. Residents are encouraged to contact state officials and ask them to pass bills that protect Cranford's future.

Where can I find additional information about the settlement?

The Township has encouraged and appreciates our residents' point of view on this matter, as a result the Township Committee has conducted numerous regular public and Special meetings where Affordable Housing topic discussions at Workshop, and has made every attempt to notify the community of these meetings via social media, the Township website and traditional news media outlets.

The Township has posted a substantial quantity of material on this matter on the Affordable Housing section of the Township's website (posted [here](#)), and the proposed settlement agreement can be found as part of the November 12, 2019 Workshop Agenda (posted [here](#)).

Additionally, the Township Committee has scheduled a public discussion at the Township Committee meeting beginning at 6 p.m. on November 12, 2019 in the Municipal Building, where the Township's team of professionals will be available to answer any questions from the public. Please attend and encourage your neighbors to join you.