

Federal Fair Housing Act

- **Prohibits Discrimination in housing**

**By landlords, sellers, lenders, insurers,
governmental entities, and others**

- **Protected Classes**

**Race, color, religion, national origin, gender,
disability, familial status**

- **Goals of FHA**

**Elimination of segregation and equal access
to housing opportunities**

Affirmatively Furthering Fair Housing

- **All HUD funded programs must be administered in a way that affirmatively furthers fair housing principles of promoting integration and eliminating segregation**
- **New Hampshire and its entitlement communities (Dover, Manchester, Nashua, Portsmouth, Rochester) must conduct analyses of impediments to fair housing (AI)**

Key Findings of New Hampshire's 2010 Analysis of Impediments Update

- **Lack of Affordable Housing for Families**
- **Source of Income Discrimination**
- **Discrimination against Domestic Violence Survivors**
- **Local Land Use Controls that Suppress Multifamily Housing**
- **Non-compliant Age-restricted Housing**
- **Lack of Data on Prevalence of Housing Discrimination**
- **Disparate Treatment in Federally Subsidized Housing of Persons with Limited English**
- **Lending Practices**
- **Lack of Data on Progress on Eliminating Impediments**
- **Lack of “Substantial Equivalency” with HUD**
- **Lack of Knowledge of Fair Housing Law and Protections**

The Law of Affordable Housing in NH

- **Britton v. Town of Chester (1991)**
 - Interpretation of the zoning power
 - Municipalities are not “isolated enclaves”
 - The obligation of every city and town: provide a reasonable and realistic opportunity for the development of affordable housing
 - “Community” means the region within which a municipality is situated—“fair share”
 - The “builder’s remedy”
- **Then what happened?**

2008 – Workforce Housing Law

- **RSA 674:58 - :61 Workforce Housing In Statute**
 - Reasonable and realistic opportunities for the development of workforce housing, including rental and multi-family housing
 - Look at the collective impact of all local land use regulations
 - Allow in a majority of residentially-zoned land area
 - Lot size and density must be reasonable

Workforce Housing

- **Definitions RSA 674:58**
 - Workforce housing—housing that’s “affordable”
 - *Renter* family of 3 making 60% of Area Median Income
 - *Owner* family of 4 making 100% of Area Median Income
 - Does not include age-restricted housing; does not include developments with >50% of units having less than 2 bedrooms
 - Affordable—no more than 30% of income should be spent on housing (rent + utilities; or PITI)

Workforce Housing

- **“Fair share” and reasonable restrictions**
 - Accounts for existing housing stock
 - View this as only an *affirmative defense*
 - Restrictions may be imposed for environmental protection, water supply, sanitary disposal, traffic safety, and fire and life safety protection

Workforce Housing

▪ Appeals—RSA 674:61

- Denial or conditions that have a substantial adverse effect on the project's viability. *Burden of proof is on developer*
- Hearing on the merits within 6 months
- If the “builder’s remedy” is imposed by court, it shall include affordability restrictions
 - Affordability restrictions may be required by the planning board as a condition

Workforce Housing

▪ Inclusionary Zoning

- The best way to address the law (RSA 674:59, I)
- Defined: RSA 674:21—incentives to voluntarily induce developers to create affordable housing
- Don't inadvertently create barriers with unrealistic requirements (e.g., 10% density bonus, but all units must be affordable)—it has to be “economically viable” (see RSA 674:59, II)
- Model created by DES and RPCs

What's Been the Local Response?

- **Town Meeting Actions**
 - Over 50 communities have taken action
 - Overlay districts
 - Inclusionary zoning
 - Multi-family districts
 - Solutions as varied as the towns proposing them – a reflection of the law, providing “maximum feasible flexibility” for communities

Conservation Subdivisions



Shaker Heights, Chester

- Affordable duplex and quad townhouses built on the property subject to the 1991 Britton v. Chester case
- An example of conservation subdivision design

Mixed-Use Infill Development



Adaptive Re-use

RSA 79-E

**Community Revitalization
Tax Relief Incentive**



Dow Academy, Franconia



Former Industrial Building, Exeter

Adaptive Re-use

Milford Mill, Milford



*Converted Farmhouse,
Hopkinton*

Affordable Single-Family Homes



Peacock Brook,
Amherst, NH

Accessory Apartments

*Accessory
Apartment,
Warner, NH*



Why Do We Still Need This?

- Housing affordability is a long-term issue
- A decade of increasing prices and limited supply spurred the Workforce Housing law
- Economic growth depends on a ready supply of labor – where will labor sleep at night?
- Communities need to prepare for a changing housing market. What we want is changing. What we've wanted may not be what our children will want.
 - ➔ ***What will we want?***
 - ➔ ***What will they choose?***