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## **Court Finds State Fails Affordable Housing Obligations**

The Appellate Division of New Jersey's courts has found that, like towns, state agencies have a constitutional obligation to take "affirmative steps to ensure adequate affordable housing" where they are responsible for planning and zoning.

In response to a suit brought by the New Jersey Builders Association, the court found that the New Jersey Meadowlands Commission (NJMC) "frustrates legislative policy and violates the Constitution." This language echoes the January 25, 2007, Appellate Division decision in a suit brought by NJBA against another state agency, the Council on Affordable Housing (COAH). That appellate court decision invalidated key components of COAH's rules because they "frustrate, rather than further," the construction of affordable housing.

NJBA challenged the plans of the NJMC and the New Jersey Sports & Exposition Authority (NJSEA) to add 56,000 jobs in the Meadowlands without any housing for the new workers. NJBA contended that, like towns, state agencies with zoning authority cannot use that power to exclude working families.

The court agreed with NJBA, but exempted the NJSEA, holding that its housing obligation must be addressed by NJMC and its constituent municipalities (the 14 towns with lands in the Meadowlands District).

"Today's decision rejects state government's contention that affordable housing is someone else's responsibility," said NJBA CEO Patrick J. O'Keefe. "The court makes clear that the constitutional commitment to fair housing (the Mount Laurel doctrine) is a 'duty owed to the people by the state.' It is time for that duty to be fulfilled."

The decision finds that there is "no sound basis" for exempting "agencies with complete control over the planning and zoning" of their jurisdictions. Nevertheless, the court exempts the NJSEA, even though the authority's redevelopment plans will add more than 20,000 permanent jobs without any provision for housing its workforce.

"While the appellate court correctly decides the constitutional principles," O'Keefe continued, "its application of them is inconsistent, particularly with respect to the NJSEA."

"We believe that the NJSEA must plan in a balanced manner," said O'Keefe. "Just as it cannot ignore the needs of the environment, it cannot ignore the needs of workers. The court erred in requiring others to fulfill NJSEA's responsibilities."

NJBA filed its suit in December 2004. The litigation named NJMC, NJSEA and East Rutherford, where the NJSEA is located. It asked the courts to compel the two state agencies to fulfill their constitutional obligations with respect to housing as enunciated in the state's Mount Laurel doctrine.

The suit argued that where zoning authority is assigned to state agencies, rather than towns, those agencies are obliged to plan in a way that will create "realistic opportunities" for affordable housing.

Today's decision rejects the State's contention that state agencies have no such obligations.

The New Jersey Builders Association is a statewide housing industry trade association of 1,800 member firms involved in all aspects of development and redevelopment in New Jersey, including commercial and residential builders, developers, remodelers, subcontractors, suppliers, engineers, architects, consultants and other professionals. The NJBA is committed to finding balanced solutions to the state's critical housing shortage. Additional information is available at: [www.njba.org](http://www.njba.org).

For more information or to contact us directly, please visit **NJBA**



**New Jersey Builders Association**  
500 Horizon Center Drive, Suite 530  
Robbinsville, NJ 08691  
Phone: (609) 587-5577 • Fax: (609) 587-1789