

**Testimony in Support of HB 6633**  
**On behalf of Reverend Eric Dobson and Adam Gordon of the**  
**Fair Share Housing Center in New Jersey**

We write in support of HB 6633 to provide some context from New Jersey’s experience with Fair Share – which has long been a driver of housing production and economic growth for our state. HB 6633 takes many lessons from New Jersey in offering a strategy to reform planning and zoning in Connecticut in a manner that respects the importance of municipal decision making while setting Connecticut on a course to meet affordable housing needs and counteract the history of segregation. This approach will support sustainable, equitable development – and promote economic growth – just as it has in New Jersey.

**A Key Lesson from New Jersey: Fair Share Promotes Opportunity for all and Empowers Towns to Unlock Their Economic Potential**

Fair Share zoning in New Jersey, known as the *Mount Laurel* Doctrine, as it exists today, has evolved over decades of learning about what works for a process in which all three branches of government have played important roles. Today, it has become an effective system generating affordable and market rate housing helping to meet the housing needs of residents of New Jersey in accordance with planning created at the municipal level. Fair Share has yielded benefits both in the form of desegregating affordable housing options, and also greater economic opportunity in the state.

Indeed, the New Jersey experience shows just how much of a difference Fair Share makes for activating the economic development and growth that are essential for a state and its communities to thrive. Consider just a few facts:

- As a result of the *Mount Laurel* Doctrine, New Jersey has produced over 60,000 affordable homes, and is on track to produce over 50,000 more over the next decade, in addition to over 200,000 built or planned middle-income homes that also offer opportunities and economic development that would not have otherwise been allowed.
- In the NYC metro area, where housing production should be booming everywhere given the sky-high demand, the NJ suburbs, which have comparable population to the NY/CT suburbs, produce new housing at around three times the rate of their NY/CT counterparts.<sup>1</sup>
- In the 2020 Census, NJ outpaced estimates of population growth by more than any other state in the country.

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<sup>1</sup> See [https://mailchi.mp/planning.nyc.gov/november-2021-housing-production?e=\[UNIQID\]](https://mailchi.mp/planning.nyc.gov/november-2021-housing-production?e=[UNIQID]); see also [https://mailchi.mp/planning.nyc.gov/housingpolicyinterview?e=\[UNIQID\]](https://mailchi.mp/planning.nyc.gov/housingpolicyinterview?e=[UNIQID]).

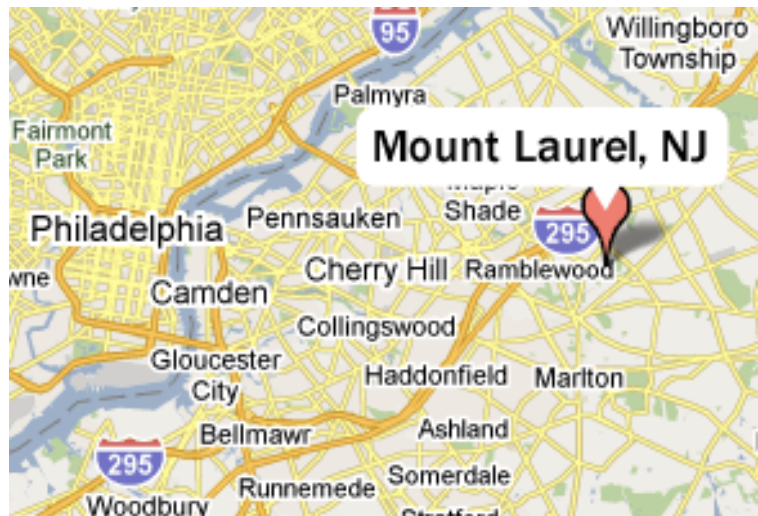
- Not surprisingly, businesses see NJ as an attractive place to launch and grow – recent examples include Netflix’s plan to build a \$1Billion state of the art production facility with 1,500 jobs in Monmouth county<sup>2</sup> and Campbells Soup’s decision to transfer key operations and jobs from Norwalk, CT, to Camden, NJ<sup>3</sup>.

## History

During the 1960s, two major development strategies were used in the Mount Laurel region, one in the City of Camden, and the other in its developing suburbs, including Mount Laurel Township in Burlington County. In Camden, policymakers relied on urban renewal and highway construction to rebuild the city. The result was just the opposite: the city’s middle-class residents, mostly white, left the city for the suburbs, and lower income families, financially unable to move out, were displaced by the government action, “relocated” from one substandard, overpriced housing unit to the next. Camden became one of the most under-resourced cities in New Jersey.

In rural Mount Laurel Township, the 1960s were a decade of major development initiatives intended to develop more than 10,000 homes, industrial parks and commercial centers and transform Mount Laurel from farmland to an affluent suburb. Tragically, not a single unit of affordable housing was part of these planned developments. Mount Laurel’s plans were fiscal zoning at its most basic, aimed at attracting the highest tax rates, which translated into excluding lower income families.

This massive development scheme created challenges for Mount Laurel’s historic Black community, which had resided in the Township since the Revolutionary War. Many members of the community traced their lineage to formerly enslaved ancestors from the South who escaped and came north by way of the Underground Railroad. Many members of Black families worked the farms and were of modest means, earning incomes much below what would be needed to purchase one of the new single-family homes planned as part of Mount Laurel’s redevelopment.



While Mt. Laurel’s redevelopment plans were undergoing the municipal approval process, the town stepped up its code enforcement efforts resulting in the removal of many of its Black residents residing in substandard, dilapidated

<sup>2</sup> <https://nj.gov/governor/news/news/562022/approved/20221220f.shtml>

<sup>3</sup> <https://www.nbcconnecticut.com/news/local/campbells-to-close-pepperidge-farm-hq-in-norwalk-move-jobs-to-new-jersey/2956939/>

housing, some of which had been converted from chicken coops. As these properties were condemned, the Township ordered the occupants to vacate. No relocation, as required by state law, was offered to these families. There was concern among members of the Black community and others that the goal was to get them out of the Township in order to enhance the marketing plan of the newly redeveloped areas to attract predominantly white middle-income and upper income families and commercial and industrial businesses subject to high tax rates.

Mount Laurel's longtime Black community, facing the prospect of being forcibly removed from their neighborhood began to organize. Ethel R. Lawrence, a daycare teacher, wife, mother of nine, church leader and member of the Burlington County Community Action program (BCCAP, the anti-poverty program), organized an effort in November 1969 to petition Mount Laurel Township's zoning board to permit the development by a nonprofit group of 36 affordable garden apartments. The objective was to create relocation housing within the Township for the Black families who were being displaced and to provide permanent housing for her children, grandchildren, and Mount Laurel's black community. The proposal was met with strenuous opposition from Mount Laurel Township officials.

### **The Mount Laurel Doctrine**

After Ms. Lawrence and the Southern Burlington County and Camden County Branches of the NAACP sued over the denial of affordable housing by Mount Laurel, the New Jersey Supreme Court, in *Mount Laurel I* (1975) and *Mount Laurel II* (1983), declared that municipal land use regulations that prevent affordable housing opportunities for lower income families violate the principle that zoning must promote the general welfare and ordered all New Jersey municipalities to plan, zone for, and take affirmative actions to provide realistic opportunities for their "fair share" of the region's need for affordable housing for low and moderate-income people. Fair Share Housing Center was then founded in 1975 by the plaintiffs and attorneys in the lawsuit to ensure that the law's requirements were carried out.

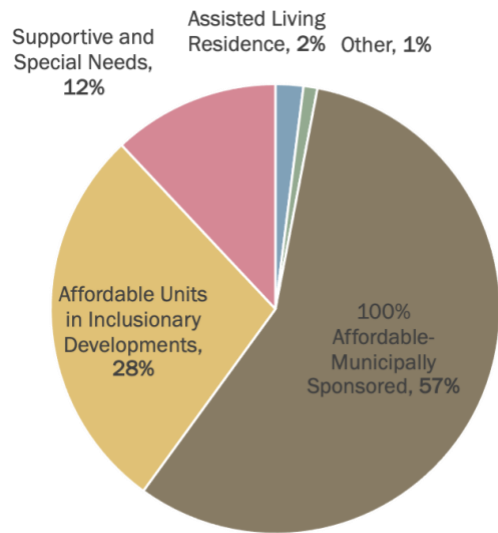
The *Mount Laurel Doctrine*, which prohibits economic discrimination against lower income families by the state and municipalities in the exercise of their land use powers, was the first case of its type in the nation and is widely regarded as one of the most significant civil rights cases in the United States since *Brown v. Board of Education* (1954). The Mount Laurel Doctrine today is a cornerstone of land use courses in all of our nation's law schools.

In 1985, the New Jersey Legislature, in direct response to the *Mount Laurel* decisions, enacted the Fair Housing Act, which created the Council on Affordable Housing (COAH) to assess the statewide need for affordable housing, allocate that need on a municipal fair share basis, and review and approve municipal housing plans aimed at implementing the local fair share obligation.

From 1987-1999, a process put in place through Council on Affordable Housing produced about 65,000 homes. Despite this success, there were some significant shortfalls, most notably Regional Contribution Agreements allowing wealthy towns to buy out of half of their obligation. The New Jersey legislature eventually passed a law banning such agreements in 2008.

Between 1999-2015, COAH passed rules that were twice found unconstitutional and generally stopped functioning in accordance with constitutional and statutory mandate. In 2015 in *Mount Laurel IV* the NJ Supreme Court found that COAH was no longer functional and transferred 300+ pending administrative matters to trial courts in response to motion to enforce litigants' rights by our organization.

The basic structure of *Mount Laurel* provides municipalities a fair share of affordable homes to rehabilitate and construct - more in municipalities in a better position to absorb it based on factors like job growth, and with a greater need, indicated by little existing affordability. Municipalities then have significant discretion over how they meet those obligations and where in the municipality, so long as the plans they produce are realistic in producing affordable housing. A number of factors may be taken into account by municipalities to adjust the obligations under established rules, including environmental regulations and sewer availability.



*Mount Laurel* has not proceeded without controversy, and significant opposition exists in some towns; it probably always will due to the deep divisions of race and class in American society. That said, it has produced tens of thousands of homes affordable to lower-income households, and there are many examples of large and small towns that have consistently produced significant affordable housing through this system that has had a dramatic impact on the lives of the people living there. And it has generated many billions of dollars in private investment unlocked by changing restrictive zoning laws to allow for development that responds to economic demand; indeed, for every affordable home built there are typically 10 or more families that apply, reflecting the huge pent-up demand that restrictive zoning has constrained. The ways in which towns have succeeded have reflected the diversity of towns in New Jersey - from intensive mixed-income redevelopment in our urban and older suburban communities to accessory apartments in barns and housing for families and people with disabilities in a rural setting in New Jersey's rural towns. And towns that have seen consistent success have achieved in many cases stable racial and economic integration, reflecting the deep diversity of our state in people's day to day interactions and schools, which is a rare achievement in our still very segregated country.

## Results

Between 1980-2014 the Mt Laurel system produced 64,744 affordable homes (see Table 1). Over 50,000 additional affordable homes over next decade are expected to result from 330 approved municipal plans.

Towns typically achieve their fair share goals through inclusionary or subsidized developments. Inclusionary developments typically include anywhere from 15-25% affordable units with 75-85%

market rate units. Affordability ranges from under 30% of median income up to 80% of median income. Such developments account for almost 30% of all the affordable units generated through the Mt. Laurel system, and have also produced over 100,000 units of middle-class housing that have helped build New Jersey’s middle-class workforce and created billions of dollars in private investment that otherwise would not have been allowed by zoning laws; another 100,000 such homes are in planning and development now. Two examples of such inclusionary development and the rents for both market and affordable units are below, one in Princeton, one of the most desirable suburbs in the United States, and the other in Secaucus, next to a rail station that is 15 minutes from midtown Manhattan and brings together almost all of New Jersey’s commuter rail lines.

	
<p><b>AvalonBay at Princeton</b>  Market rents: \$2260 (1BR) to \$4565 (3BR)  Affordable rents: \$580-\$1160 (1BR) to \$804-\$1608 (3BR)</p>	<p><b>Xchange at Secaucus Junction</b>  Market rents: \$2045 (1BR) to \$3030-3470 (3BR)  Affordable rents: \$535-\$1070 (1BR) to \$742-1484 (3BR)</p>

Developments that are 100% affordable at a range of incomes account for about 57% of the units generated through the Mt. Laurel system. Research demonstrates that such developments produce a range of very significant positive outcomes for families in need of affordable housing with no negative neighborhood impact when located in lower poverty areas that are not at risk of poverty concentration. That is just what the Mt. Laurel system is producing in NJ using the federal Low Income Housing Tax Credit program, a tool for generating affordable housing that elsewhere in the nation has contributed to segregated housing patterns. In New Jersey, such funding both has created tens of thousands of homes in historically exclusionary communities and helped preserve affordability in gentrifying urban neighborhoods. From 2003-2013 the state showed the greatest *increase* of all states in the share of units sited in neighborhoods with <10% poverty (+34.4%). New Jersey also experienced the greatest *decrease* of all states in share of units sited in neighborhoods with >30% poverty (- 29.9%). Likewise, NJ showed the greatest *decrease* of all states in Tax Credit units exposed to high levels of poverty (-11.5%).<sup>4</sup>

Significantly, these affordable housing units are generating demonstrable positive outcomes with no negative effects on the surrounding neighborhood. For adults, access to housing outside of

<sup>4</sup> Ellen, Ingrid G., Keren Horn, Yiwen Kuai, Roman Pazuniak, and Michael David Williams. 2015. “Effect of QAP Incentives on the Location of LIHTC Properties.” U.S. Department of Housing and Urban Development Office of Policy Development and Research.

higher poverty areas reduced exposure to disorder and violence, improved mental health, increased economic independence. For children, access improved education, learning conditions at home, school quality, and reduced their exposure to disorder and violence. Comprehensive research comparing the neighborhoods receiving the new affordable units to other similarly situated neighborhoods that did not host such housing showed no adverse effects on taxes, property values, crime rates.<sup>5</sup>

New Jersey has over 50 years developed and honed a system that is now effectively generating affordable units aligned with municipal planning and zoning. HB 6633 incorporates the lessons we have learned in New Jersey so that Connecticut can reap the benefits of a fair share system built on New Jersey's successes. We hope that the Connecticut Legislature will take a close look at this proposal and pass HB 6633.

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<sup>5</sup> Climbing Mount Laurel: The Struggle for Affordable Housing and Social Mobility in an American Suburb by Douglas S. Massey, Len Albright, Rebecca Casciano, Elizabeth Derickson, and David N. Kinsey.