

**PRELIMINARY REVIEW AND ASSESSMENT
OF
LOW AND MODERATE INCOME HOUSING NEEDS
OF OCEAN COUNTY MUNICIPALITIES**

October 30, 2015

Submitted to: The Honorable Mark A. Troncone, J.S.C
The Honorable Marlene Lynch Ford, A.J.S.C.
Superior Court of New Jersey
Law Division: Ocean County

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SUMMARY OF FINDINGS AND RECOMMENDATIONS

- o The ensuing evaluation has been prepared at the request of the Superior Court of New Jersey, Law Division, Ocean County to assist the Court in its review and assessment of matters resulting from the Supreme Court's decision in In The Matter Of The Adoption of N.J.A.C. 5:96 And 5:97 By The Council On Affordable Housing, 221 N.J. (2015) (hereinafter "*In re: COAH*") which has returned to the Courts their role as the forum of first resort for evaluating municipal compliance with their affordable housing obligations.
- o The determination of the "fair share" number is one of the most troublesome issues and one that generates the greatest divergence of opinions. In the absence of a "fair share" number, the compliance of municipalities to an unknown standard cannot be measured. On the following pages, the positions of interested parties as presented in reports prepared for the Fair Share Housing Center (FSHC) by David N. Kinsey, PhD , by Robert W. Powell, Jr., PhD and Econsult Solutions on behalf of the New Jersey League of Municipalities have been reviewed.
- o The review process, which relied upon the information furnished to the court, was undertaken with the objective of quantifying the affordable housing needs of the municipalities located in Ocean County. The information and comments provided by Dr. Powell and Econsult Solutions provided a framework for the review of the "fair share" calculations contained in Dr. Kinsey's methodological format which, absent an adopted COAH methodology, is currently the only complete model for estimating municipal obligations.
- o The review of Dr. Kinsey's methodology and calculations of present and prospective need for affordable housing has disclosed several areas where alternative data sources and procedures could be used to yield improved results as well as a number methodological issues that create significant analytical problems that need to be corrected. Of greatest significance are six areas in which corrections and adjustments need to be made, and include adjustments to the projection period to avoid double counting, reductions for prior (1999-2015) affordable housing activity, correcting the secondary source calculations, correcting the beginning date for the 20 percent "cap" calculation, revisions to the projected growth of LMI Households and an adjustment to the proportion of elderly (65 year and older) households.
- o It is recommended that the Court consider the aforementioned adjustments and corrections which, to the extent possible, have be made within the context of the Dr. Kinsey's model, the results of which have been prepared for all of the municipalities located within Ocean County. The recommended revisions are preliminary in nature and have been prepared in order to provide the municipalities with interim targets for the preparation of their housing elements and fair share plans. The revised municipal housing obligations will undoubtedly be subject to future revisions as new information becomes available. The establishment of an alternative "fair share" number will hopefully be the catalyst for mediation and voluntary compliance.

INTRODUCTION

The inaction and failure of the Council On Affordable Housing (COAH) to fulfill its responsibilities under the Fair Housing Act (FHA) and its own regulations resulted in the Supreme Court's decision in In The Matter Of The Adoption of N.J.A.C. 5:96 And 5:97 By The Council On Affordable Housing, 221 N.J. (2015) (hereinafter "*In re: COAH*"). This decision has returned to the courts their role as the forum of first resort for evaluating municipal compliance with Mount Laurel¹ obligations. As a consequence of COAH's inactions, the Mount Laurel designated judges must now, not only hear and decide actions addressing municipal compliance with constitutional compliance obligations, but must also establish a "fair share" against which municipal compliance may be measured.

The absence of an established yardstick for the measurement of municipal compliance is complicated by the significant divergence of opinions advanced by the competing interests as to the calculation of a municipality's "fair share". The Court's guidance during this transition involves a preliminary judicial determination of present and prospective need that will assist in assessing the legitimacy of municipality's compliance plan, as proposed and supplemented by the processes authorized by the FHA. These processes include conciliation, mediation and the use of special masters. Specifically, it was emphasized *In re: COAH* that the judicial role was not to become a replacement agency for COAH.

The Supreme Court's decision did not eradicate prior round obligations and, to the contrary, municipalities are expected to fulfill those same obligations COAH had established as the second round obligations in 1993 as well as the utilization of a methodology for determining prospective need similar to the methodologies used in the first and second rounds on the basis the most up-to-date data. This report presents, and is limited to a review of the information presented by the interested parties and offers recommendations for the establishment of preliminary municipal affordable housing obligations that may be utilized in assessing the compliance of affordable housing plans.

¹Southern Burlington County NAAC v. Twp of Mount Laurel, 67 NJ 151 (1975), Southern Burlington County NAAC, et al v. Township of Mount Laurel 92 N.J. 158 (1983) (Mount Laurel II)

BACKGROUND AND PARTICIPANTS

Nature of the Controversy

After fifteen years of delay, the Council On Affordable Housing (COAH) published the third iteration of its Third Round Rules which had been prepared by Dr. Robert W. Burchell. These rules were not adopted by COAH, and COAH's failure to adopt, as required by the Fair Housing Act and its own regulations, resulted in the Supreme Court's decision in In The Matter Of The Adoption of N.J.A.C. 5:96 And 5:97 By The Council On Affordable Housing, 221 N.J. (2015) (hereinafter "*In re: COAH*") and has returned to the courts their role as the forum of first resort for evaluating municipal compliance with their affordable housing obligations.

Irreconcilable Differences

The determination of the "fair share" number is one of the most troublesome issues and one that generates the greatest divergence of opinions. In the absence of a "fair share" number, the compliance of municipalities to an unknown standard cannot be measured.

Council On Affordable Housing - The last complete methodology advanced by COAH in its third iteration of the Third Round Rules (unadopted) calculated the following affordable housing obligations:

COAH'S Proposed Third Round Rules

Present	Prior Rounds	Prospective	
<u>Need 2010</u>	<u>1987-2014</u>	<u>2014-2024</u>	<u>Total</u>
62,859	21,558	30,633	115,050

Fair Share Housing Center - The Fair Share Housing Center (FSHC) retained David N. Kinsey, PhD to prepare a study of the low and moderate income housing needs of New Jersey municipalities, the most recent version of which was revised in July of 2015. The Kinsey study, which does provides information down to the municipal level, has prepared an alternative calculation of statewide affordable housing needs:

Fair Share Housing Center/ Kinsey Report

Present	Prior Rounds	Prospective	
<u>Need 2010</u>	<u>1987-1999</u>	<u>1999-2025</u>	<u>Total</u>
62,057	85,875	201,643	349,574

The Nassau Capital/Powell Report - The New Jersey League of Municipalities (NJLM) has commissioned Robert W. Powell, PhD of Nassau Capital Advisors to prepare a report entitled, “Demographic and Economic Constraints on the Inclusionary Zoning Strategy Utilized for the Production of Low and Moderate Income Housing in New Jersey”. Dr. Powell’s “constraints” report provides an overview of private sector limitations and their effect upon the need projections developed in the Kinsey report, but does not provide a framework for the calculation of municipal affordable housing obligations.

Econsult Solutions - Econsult Solutions has been retained by the New Jersey League of Municipalities to prepare a report to review and analyze the methodology and findings contained Dr. Kinsey’s July 2015 report. The Econsult “review” report presents a thorough review of the Kinsey report and identifies a number critical assumptions and calculations therein as well as estimates of the impact of these methodological issue. This review report does not provide an alternative methodology that could be used to determine affordable housing obligations that are needed by municipalities in Ocean County.

Municipalities - A group of approximately 230 municipalities, including a number of municipalities in Ocean County , entered into a shared services agreement with Rutgers University to retain Dr. Burchell as a common expert to prepare a report that would provide a methodology for the calculation of municipal affordable housing needs. Dr. Burchell suffered a debilitating stroke in July of 2015 and was unable to prepare his report, which was due on September 30, 2015. This group subsequently retained Econsult Solutions to prepare a report that would provide a methodology for the calculation of municipal housing needs, however, the Econsult “fair share” report will not be completed until sometime in December 2015.

Issues Identified

The Kinsey “fair share” report is a complete methodological analysis of affordable housing needs that represents an alternative to the last, but unadopted, rules prepared for the Council On Affordable Housing. Presently, the Kinsey report is the only complete methodological model, other than COAH’s unadopted Third Round Rules, that provides an analytical format that can be used or modified to prepares estimates of municipal affordable housing needs.

The Nassau Capital report prepared by Dr. Powell highlights the economic and demographic constraints on the New Jersey housing market and the difficulties confronting the satisfaction of affordable housing objectives solely with inclusionary housing initiatives. Many of the comments offered by Dr. Powell confirm trends that are occurring, including a declining rate of housing production, an increasing component of rental housing and a shift in employment opportunities and housing production from suburban to urban locations. The principal finding of Dr. Powell’s analysis is that recent population, employment and housing growth in New Jersey is occurring, and is likely to continue at substantially reduced rates relative to those in the past. The diminished growth expectations in 2015 are substantially different than those which prevailed in the 1980's and 1990's when the Prior Rounds were being prepared.

Econsult Solutions has prepared and provided a “review” report that specifically examines the methodology utilized by Dr. Kinsey in his “fair share” report. The Econsult “review” identifies and focuses its analysis on ten methodological issues in the Kinsey report: 1.Time frame for Calculations; 2. LMI Proportion of Population; 3. Median Income Adjustment to LMI Ratio; 4.Double Counting of Present and Prospective Need; 5. Exclusion of Prior Activity; 6. Starting Date for Municipal Cap Calculation; 7. Use Of Building Permit Data; 8. Secondary Adjustments 9. Significant Housing Assets and ; 10. Inclusion of Extremely Low Income Households.

Establishing The Need

To avoid continued delays, the court has established schedules that will enable municipalities to proceed with the preparation of their housing elements and fair share plans based upon a preliminary “number” that will undoubtedly be subject to further debate. For the purposes of establishing a “number”, it is not the purpose of this report to be a “replacement COAH”, but to

evaluate the submissions that have been received by the interested parties.

The Third Round Affordable Housing Need is to be calculated using a methodology similar to the that which was used in the Second Round, with adjustments for the most up-to-date data that would include economic conditions and the expectations for growth that are much different now than they were in 1993 when the prior obligations were constructed. Additionally, the term of the projection for the next round has grown from six years in 1993 to a twenty-six year period from the end of the last cycle (1999) to ten years hence in 2025. The review and recommendations for the establishment of municipal “fair share” obligations does not authorize a new methodology by court appointed masters, but requires a reconciliation of the varying information presented by the parties of interest. The ensuing review and recommendations may be viewed as a positive first step in establishing a “fair share” number which is one of the most troublesome issues, consumes the most time and generates the greatest divergence of opinions. The recommendations advanced herein, nevertheless, may provide a numerical target for the preparation of compliance plans. As new information becomes available over the next few months, is it is possible that revised municipal allocations may be necessary and appropriate.

At this time, and consistent with the schedule established in *In re COAH*, this analysis shall proceed with the information that is now available in order to provide some guidance to municipalities in the formulation of their housing elements and compliance plans.

THE NASSAU CAPITAL REPORT

The New Jersey League of Municipalities (NJLM) has retained Nassau Capital Advisors to prepare an evaluation of the effectiveness of the “inclusionary zoning strategy” to stimulate the construction of housing affordable to low and moderate income households. In this regard, Robert S. Powell, PhD has prepared and submitted a report entitled, “Demographic and Economic Constraints on the Inclusionary Zoning Strategy Utilized for the Production of Low and Moderate Income Housing in New Jersey”. The report prepared by Dr. Powell, dated September 22, 2015, does not present a model or methodology that can be used to calculate affordable housing needs and obligations. Instead, Dr. Powell examines the demographic and economic constraints and the private capital issues that are involved the production of housing in general, and affordable housing in particular.

The reliance upon the private sector for the production of housing for low- and moderate-income (LMI) households through the use of financial incentives to developers in the form of zoning policies and density bonuses is the primary focus of Dr. Powell’s report. These incentives, referred to as inclusionary zoning strategies, are the economic bargain needed to entice developers to challenge the restrictive zoning that is a primary barrier to providing a realistic opportunity for the construction of housing for low and moderate income families. Dr. Powell’s report is divided into five sections which address the following: 1. Projected Need for Affordable Housing; 2. Housing Production in New Jersey; 3. The Shifting Location of New Housing in New Jersey; 4. The inability of Inclusionary Housing to Address the Needs of the Extremely Poor, and; 5. Summary and Conclusions.

Although Dr. Powell’s report does not present an alternative methodology for the calculation of Oceans County’s affordable housing obligations, the information contained therein may offer a useful insight into the issues that are involved in satisfying affordable housing needs.

1. Projected Need for Affordable Housing

The Powell report begins with a comparison of the calculation of the need for affordable housing as that was prepared for COAH by Rutgers University Center for Urban Policy Research

under the direction of Principal Consultants Robert W. Burchell, PhD; William Dolphin, M.A. and Jinwoo Kwon, M.R.P. The second study in these comparisons is the “fair share” report prepared for the FSHC by David N. Kinsey, PhD. The comparisons of the affordable housing needs derived in the Rutgers-Burchell study with those by the FSHC-Kinsey Study were reported to yield dramatically different results:

	<u>Present</u> <u>Need 2010</u>	<u>Prior Rounds</u> <u>1987-2014</u>	<u>Prospective</u> <u>2014-2024</u>	<u>Total</u>
<u>Burchell</u>	62,859	21,558	30,633	115,050
	<u>Present</u> <u>Need 2010</u>	<u>Prior Rounds</u> <u>1987-1999</u>	<u>Prospective</u> <u>1999-2025</u>	<u>Total</u>
<u>Kinsey</u>	62,057	85,875	201,643	349,574

Dr. Powell noted that an analysis of the data, methodologies and assumptions utilized by these two experts was beyond the scope of his report and that quantifying the exact number of new units needed “will undoubtedly be the subject of vigorous debate among experts over the next several years”.

Section 2. Housing Production In New Jersey

The Powell report notes a declining trend in residential construction authorized by building permits issued by with a range in the downward trend from an average of 24,972 units a year over the past 15 year, to 19,845 units per year during the past 10 years and 15,646 units per year during the past five years:

<u>Historical Trends 2000-2014</u>			
<u>New Jersey Housing Units Authorized by Building Permits</u>			
<u>Period</u>		<u>Total</u>	<u>Average</u>
2000-2014	Past15 Years	374,130	24,942
2004-2014	Past 10 Years	198,450	19,845
2010-2014	Past 5 Years	78,230	15,646

In a discussion of the factors driving housing demand, the Powell report has identified

headship rates as an important factor in household formation and cites a report by the Joint Center for Housing Studies at Harvard University where difficult economic conditions are continuing to reduce headship rates that are compounded by delayed household formation among 18-34 year olds. The expectation for stable headship rates that was noted by Dr. Powell was also referenced in the Kinsey study which also anticipated stable (flat) headship rates.

The slower economic growth anticipated by Dr. Powell was supported by a Rutgers Economic Advisory Service (R/ECON) report that cited New Jersey's slow recovery of jobs lost in the recession, a continued New Jersey recovery slower than the national average and concluded that there is little evidence to support a robust increase in households over the next ten (2015-25) years.

Section 3. The Shifting Location of New Housing in New Jersey.

A shift towards rental housing, and changes in the location of new housing in New Jersey from suburban to urban areas is the focus of the Powell report in this section. Dr. Powell refers to a Rutgers report by Dr. James W. Hughes and Dr. Joseph Seneca that claims that non-suburban centric patterns of spatial shelter demand will yield residential demand and construction that differ somewhat from prevailing forecasts of the recent past. As consequence of Smart Growth and increased rental housing, the Rutgers Regional Report concludes that suburban areas are no longer economic frontiers and that younger households will begin to retreat from suburban lifestyles.

Dr. Powell reports that the shift to urban areas has accounted for 34 percent of new housing authorized between 2010 and 2014 being located in 56 "Urban Aid" communities. It is Dr. Powell's contention that the 56 Urban Aid municipalities which are now generating over one-third of the State's new housing units are exempt and beyond the reach of inclusionary zoning strategies.

Section 4. Inability of Inclusionary Zoning to Address Extremely Poor Housing Needs

It is Dr. Powell's opinion that land use initiatives and current UHAC provisions, which provide housing affordable to "very low income" families earning 30 percent of the regional median income do not accommodate "extremely low income" households earning 20 percent or less of the median who cannot afford to purchase or rent housing priced at the 30 percent level. Dr. Powell contends that, notwithstanding the inability of the land use (zoning) initiatives to accommodate "extremely

low income” households these same households are included within the projected affordable housing needs.

In this regard, Dr. Powell concludes that a sizeable component of LMI households represented by the extremely poor are beyond the reach of inclusionary zoning strategies as opposed to publicly funded housing initiatives.

5. Summary and Conclusions

The substance of the Powell report is presented in this section where it concludes that:

- 1) Housing growth in New Jersey will be sluggish and slower in the future than in the nation and is not likely to achieve a level of growth needed to support a robust housing market.
- 2) Inclusionary zoning will face obstacles in its ability to produce affordable housing with a diminished economy and there is no credible evidence to support an increase in housing growth beyond the historic levels.
- 3) The shift from suburban development to redevelopment in Urban Aid communities will reduce the production of affordable housing due to the exemption of the communities where new housing growth will occur.
- 4) Inclusionary zoning is not capable of providing housing affordable to “extremely low income” households with incomes 20 percent or less of median income.

The report provided by Dr. Powell highlights the economic and demographic constraints on the New Jersey housing market and the difficulties confronting the satisfaction of affordable housing objectives solely with inclusionary housing initiatives. Agreement is noted herein with the comments offered by Dr. Powell that: 1) Housing and employment growth in New Jersey is occurring at diminished rates ; 2) rental housing has accounted for an increased component of new construction and there is documented shift in employment opportunities and housing production from suburban to urban locations; 3) Inclusionary developments have, and will continue to provide only a portion of the affordable housing units needed in New Jersey. Economic constraints are important considerations and demographic changes, particularly in longer term projections, need to be carefully considered.

ECONSULT SOLUTIONS

The next submission to be considered in this review and assessment is a report prepared on behalf of the New Jersey League of Municipalities by Econsult Solutions (Econsult) under the direction of Peter A. Angelides, PhD. This report, “Review and Analysis of Report Prepared by David N. Kinsey, PhD Entitled: New Jersey Low and Moderate Income Housing Obligations,” is dated September 24, 2015. The Econsult report is limited to a review of the information contained in Dr. Kinsey’s July 2015 report and does not present an alternative methodology for the calculation of municipal affordable housing obligations. It is stated at the outset that this Econsult report does not provide alternative figures for statewide housing obligations to those presented by Dr. Kinsey or by Dr. Robert Burchell in his 2014 analysis for the Council On Affordable Housing.

It is Econsult’s position that the complex nature of the calculation of affordable housing needs necessarily includes a number of choices by the analyst that will influence the outcome of such calculations. With respect to the foregoing, the Econsult report identifies and focuses its analysis on ten (10) methodological issues with the Kinsey report:

Methodological Issues

1. Time frame for Calculation
2. LMI Proportion of Population
3. Median Income Adjustment to LMI Ratio
4. Double Counting of Present and Prospective Need
5. Exclusion of Prior Activity
6. Starting Date for Municipal Cap Calculation
7. Use Of Building Permit Data
8. Secondary Adjustments
9. Significant Housing Assets
10. Extremely Low Income

A review of the data and findings advanced by Econsult in each of the foregoing methodological issues is presented on the following pages.

Time Frame for Calculations

The Econsult report compares and contrasts the time frame for calculations utilized in the Kinsey report to those employed by Dr. Burchell's 2014 report for COAH. The time frames used by Dr. Burchell for the three components of housing need establish 2014 as the common point for their demarcation. Present Need is calculated as of 2014 while the Prior Round Obligation for the period from 1987 to 1999 is updated to 2014, with adjustments to the affordable housing supply from 1999 to 2014 allocated to offset a portion of the prior round obligation in order to derive "unmet" obligations. Prospective Need was calculated by Dr. Burchell for a ten year period extending from 2014 to 2024. The structure (time frame) used by Dr. Burchell creates separate and non-overlapping calculations of municipal need that may be added to derive total obligations.

Econsult's review of Dr. Kinsey's methodology discloses varying and overlapping time frames with a potential for double counting. Present Need is calculated by Dr. Kinsey as 2010 while the Prior Round is the 1987 to 1999 obligation without adjustments for affordable housing supply. Prospective Need is calculated by Dr. Kinsey as the entire period from 1999 to 2025 and thus includes both a past (retrospective) and future need. It is further noted that Dr. Kinsey's 20 percent "cap" calculation is based upon 2012 households rather than the beginning (1999) of his prospective need calculations. It is Econsult's position that the time frames selected by Dr. Kinsey are subject to overlapping calculations and that the calculation of a Prospective Need (1999-2025) includes a prior (1999-2015) period and a future (2015-2025) period, creating methodological issues that influence Dr. Kinsey's calculations.

Econsult's observations with regard to Dr. Kinsey's time frame are correct and there are instances of overlapping and over counting imbedded in Dr. Kinsey's selection of time frames that are also a divergence from the Prior Rounds.

Proportion of LMI Households

Econsult's review of Dr. Kinsey's methodology has discerned the use of varying ratios of LMI households in his calculation of the growth of LMI households. Between 1999 and 2025, Dr. Kinsey's calculations disclosed a total increase of 372,000 LMI households of which 284,000 households, or 77 percent are indicated to be LMI households. Dr. Kinsey's use of a different LMI

ratio (41.2 percent) at the beginning of the projected period in 1999 and a higher ratio of 45.0 percent at the end of the projection period in 2025 is found by Econsult to be the largest driver resulting in the projection that 77 percent of all new households in New Jersey will be lower income households. The increase in the proportion of the LMI households (41.2 to 45.0 percent) was also noted by Econsult to be a significant factor in the increase in the estimate of 201,000 LMI households in Dr. Kinsey's 2014 report compared to 285,000 LMI households in the current (July 2015) report. Econsult opines that if a constant LMI ratio had been applied, such as the 40.3 percent ratio determined by COAH in 2004 had been utilized, the increase in LMI households would be 153,000 households rather than 284,000 households, indicating a decrease of 131,000 LMI households.

This is a very significant methodological issue and requires an adjustment to the foundation of Dr. Kinsey's Prospective Need estimate, which will be further examined in the subsequent review of this methodology.

Median Income Adjustment

Econsult observes that the Dr. Kinsey's projected increase in LMI ratios, would contribute to a reduced overall median income against which the LMI households would be constructed. Dr. Kinsey projects that 65+ households will increase from 24.1 percent of all households in 2013 to 31.8 percent of all households in 2025, of which 48.5 to 76.8 percent would be LMI households. This concentration of 65+ households would lower the overall median income. Econsult provides an analysis (pages 13, 14 and 15) and a supplement (Appendix) that yields a median income reduction of approximately 3 percent attributable to the increase in lower income household in Dr. Kinsey's 1999-2025 projections. This calculation would serve to reduce the overall median income and restore the 40 percent definitional LMI ratio.

The calculation of future median income relationships would be an unnecessary exercise if a constant LMI ratio had been utilized.

Double Counting Present and Prospective Need

The discussion by Econsult (page 15) regarding the potential for double counting is an extension of their previous comments regarding the "time frames" selected by Dr. Kinsey. In Dr.

Kinsey's methodology, Present Need and Prospective Need are not mutually exclusive and the "deficient" (Present Need) housing occupied by LMI households between 1999 and 2010 are also included in Prospective Need calculation. Econsult has estimated that this overlap may represent 21,000 "double counted" units.

While there is likely some element of double counting, the information presented by Econsult is not sufficient to quantify the extent that they could be used for assessing on municipal obligations.

Excluding Prior Activity

Econsult states that the exclusion of prior activity in the Prospective Need projections was not an issue in Rounds 1 and 2 because the calculations were prepared prior to the "Round". Dr. Kinsey's current (July 2015) Prospective Need analysis combines a "past" (1999-2015) and "future" in its 1999 -2025 estimates. With an extended period encompassing both prior and future housing needs, some attempt should have been made to account for affordable housing produced between 1999 and 2015. In COAH's 2014 analysis, Dr. Burchell calculated that 92,000 LMI units were added between 1987 and 2014, or approximately 3,300 units annually ($92,000 / 28 = 3,286$). Econsult applies this annual production to the 16 years from 1999 through 2014 to derive a LMI reduction of 52,000 units between 1999 through 2014.

Dr. Kinsey has acknowledged prior activity with respect to Prior Round obligations and states (Page 8) that, "In many cases, municipalities have already satisfied some or all of their Prior Round obligations, which can be evaluated on a case-by-case basis in individual municipal proceedings". Apparently in the absence of adjustments for "prior activity" in the 1999-2015 portion of Prospective Need, this will be another adjustment that will have to be made in "individual municipal proceedings"

Starting Date for Municipal Cap Calculation

In Dr. Kinsey's methodology, the calculation of the 20 percent cap in the 1999-2025 Prospective Need calculations is for 2012 as opposed to the number of households in the 1999 at the commencement of the 1999-2025 municipal allocations. This projection includes LMI households created between 1999 and 2012, but does not use the household base from the outset of the

projection period. Econsult estimates that the use of the higher (2012) household base would raise the cap limit by approximately 46,000 households.

The Econsult estimate of an increased 20 percent cap amounting to 46,000 households would suggest an increase of 230,000 households in the household base between 1999 and 2012. To quantify this discrepancy, a comparison of the 1999 and 2012 housing base vis-a-vis the pre-credited prospective need would have to be prepared in order to establish the differential between the 20 percent cap against the 1999 and 2012 household bases.

This is a warranted statistical adjustment, unfortunately the actual calculations have not been provided .

Use of Building Permit Data for Housing Occupancy

The current number of occupied housing units in a municipality are estimated by Dr. Kinsey by using building permits issued by municipalities. Econsult notes the disparity between the number of building permits issued and the number of certificates of occupancy, and documents that the number of Certificates of Occupancy issued from 2000 through 2014 amounts 81.8 percent of the number of building permits issued.

Certificates of Occupancy (CO's), when available, are a preferred measure of residential construction as they represent a subsequent step in the development process leading to the actual production of housing units and, ultimately the occupancy of households. From 2000 through 2009, Econsult reports the issuance of residential building permits authorizing 307,560 housing units compared to 249,725 Certificates of Occupancy, indicating that Building Permits were 1.23 times the number of CO's issued.

No calculation of the impact resulting from the use of building permits as opposed to certificates of occupancy has been offered by Econsult and, therefore, are not a proposed adjustment of Dr. Kinsey's calculations.

Secondary Adjustments for Market Based Factors

The three "secondary source" adjustments used by Dr. Kinsey include filtering, conversions and demolitions. Econsult notes that Dr. Kinsey's methodology allocates regional need prior to

adjusting for secondary sources and thus reduces the prospective need obligations to zero in certain municipalities although these municipalities still contribute to regional demand and have secondary adjustments that are not counted due to their “zero” allocation. The secondary source adjustments calculated by Econsult would be expected result in a net need reduction of 18,000 units rather than the 7,000 unit increase indicated by Dr. Kinsey, yielding a reduction in overall (statewide) affordable housing need of 25,000 units.

The secondary source municipal adjustments are municipally-derived and their suggested assignment prior to the allocation of regional need creates a modeling problem that has not been addressed or presented. While the mathematical logic of Econsult’s comments are recognized, a methodology for their resolution has not been presented.

Significant Housing Assets

Dr. Kinsey’s methodology includes all LMI households as representative of the Prospective Need for affordable housing. Econsult believes that the calculation of the total number of households with incomes below 80 percent of the median does not accurately reflect the affordable housing need due to exclusionary zoning and includes households that do not represent affordable housing needs. These groups include households that own their own homes with no mortgage and spend less than 38 percent of their income on total housing costs. Over the 26 year projection period, many of the new households are represented by retired households that have, or will have paid off their mortgages, resulting in reduced housing costs. These senior households are moving into lower income categories, but are not necessarily newly formed in the region, are nevertheless counted in the increase in lower income households.

The Econsult comments, insofar as they relate to older (65+ households), are a manifestation of a larger issue that relates to the income-based nature of the calculation of affordable housing needs. Household incomes decline upon retirement and many older (65+) households have retirement incomes that place them among the households with incomes below 80 percent of the median. The reduced income of older households is not necessarily indicative of a housing need, but is merely a function of their lowered current income. Many older households have also reduced their housing costs and supplement their expenditures with accumulated assets. An asset-based,

rather than income-derived, classification of older households could be expected to remove sizeable segments of this population from Prospective Need calculations. It is estimated by Econsult that the housing asset test would decrease the gross Prospective Need by approximately 34,000 households.

This impact of the reduced income accompanying retirement is clearly evident in the Dr. Kinsey's Prospective Need calculations wherein 204,909 units of the 284,974 units (71.9 percent) included in the total Prospective Need are represented by households headed by persons 65 years of age or older. Dr. Kinsey's calculations suggest that the overwhelming majority (71.9 percent) of the State's (1999-2025) total Prospective Need is required to house older, and largely retired households. The "significant housing assets" referenced by Econsult is only the tip of the iceberg in a mismatch of housing needs with the elderly age cohorts in Dr. Kinsey's Prospective Need estimates. The growth of 65 and older households is significantly influenced by the length of the Prospective Need projection (26 years) and the aging of households that are already housed and not moving to New Jersey in search of new housing or employment. This elderly component of the Prospective Need calculations is a fundamental issue that undermines the process and the reliability of the results. The "asset test" proposed by Econsult may actually understate the impact of the representing elderly households as the dominant component of the Prospective Need. Accordingly, the adjustment suggested by Econsult for households with "significant assets" may not be the most appropriate adjustment, but it is better than no adjustment.

Extremely Low Income

The Prospective Need calculations prepared by Dr. Kinney include all households with incomes below 80 percent of the regional median. Econsult contends that a proportion of the total number of households with incomes below the 80 percent threshold include "extremely low income" households that are unlikely to benefit from inclusionary zoning initiatives. An analysis is presented by Econsult that asserts that households with "extremely low incomes", or incomes below 20 percent of the regional median, could not qualify or afford housing priced at the "very low income" limits established. It is further estimated by Econsult that the "extremely low income" households represent 76,000 households included within Dr. Kinsey's Prospective Need estimates and should be removed from land use (zoning) solutions.

While it is likely that “extremely low income” households may be beyond the reach of inclusionary zoning initiatives, these households may be within the capabilities of publicly funded or financed housing developments. Inclusionary housing has not, and is not likely to satisfy all of New Jersey’s affordable housing needs, however, there a number sources that contribute to the production of affordable housing. The Fair Housing Act amendments of 2008 include “Very Low Income” households with incomes of 30 percent or less of median income. COAH’s regulations have included, since 2004, a bonus credit for “very low income households”.

Concluding Comments

Econsult’s “Review and Analysis” has identified a number of issues with the Dr. Kinsey’s methodology that are a function of the numerous choices necessary in the modeling approach. It is acknowledged by Econsult that the individual adjustments suggested are not necessarily additive but nevertheless raise legitimate concerns in several key areas of Dr. Kinsey’s calculations that need to be further addressed and complied to yield calculations of the regional and municipal affordable housing needs. The ten (1) methodological issues identified in the Econsult review illustrate orders of magnitude that each of the suggested adjustments could yield.

Recommended Adjustments

Based upon the preceding review, adjustments should be made to account for the following methodological issues that have been identified in the Econsult report:

- 1) Proportion of LMI Households;
- 2) Overlapping Time Frames;
- 3) Prior Activity Reduction;
- 4) 20 Percent Cap Calculation;
- 5) Secondary Sources, and;
- 6) Households with Assets.

THE KINSEY REPORT

The Fair Share Housing Center (FSHC) has retained David N. Kinsey, PhD, to prepare a calculation the regional housing needs and municipal housing obligations utilizing a methodology similar to those utilized by Dr. Burchell in the Round 1 (1987-93) and Round 2 (1993-1999) methodologies.

Present Need and Prior Round Obligation

The Kinsey report provides a background and basis for his report, a calculation of the Present Need (deficient housing) as of 2010 and the consolidated Prior Round (1987-1999) obligations.

Present Need

The Present Need, previously referred to as indigenous need, is the number of deficient housing units in a municipality occupied by low and moderate income households. Due to data availability now available, the number of deficient housing units is now derived using three surrogates (overcrowding, lacking plumbing or lacking kitchen facilities) as opposed to seven criteria in the Prior Round. Dr. Kinsey calculates the statewide Present Need as of the most recent Census (2010) to amount to 62,257 low and moderate income (LMI) housing units, a number that is not significantly different the COAH's most recent calculation (for 2010) of 62,859 LMI housing units. For the purpose of this review and recommendation, Dr. Kinsey's statewide Present Need estimate of 62,257 housing units, of which 1,997 Present Need units are located in Ocean County, shall be utilized.

Prior Round Obligation

The calculation of prospective need was calculated in 1986 for 1987-1993 (First Round) and was calculated in 1993 for a combined (1987-1999) need. Dr. Kinsey the utilizes the Prior Round (1987-1999) affordable housing obligation, which amounted to 85,875 housing units, with no adjustments with respect to whether those adjustment have been met in the interim years. It is Dr. Kinsey's opinion that, in many cases, "...municipalities have already satisfied some or all of their

prior round obligations, which can be evaluated on a case-by-case basis in individual municipal proceedings”. By way of comparison, the last COAH calculations prepared in 2014 disclosed that the prior round (1987-2014) need had been reduced to an “unmet need” for 22,171 units. Neither COAH or Dr. Burchell are available to address these adjustments to a prior round obligation for a different period (1987-2014) than the Dr. Kinsey’s unadjusted Prior Round need calculated for 1987-1999. For the purposes of this review, Dr. Kinsey’s “unadjusted” Prior Round obligation of 85,875 units, all or some of which may already been satisfied, will need to be evaluated on a case-by-case basis in individual municipal proceedings.

For Ocean County, the Kinsey report indicates that Ocean County’s “unadjusted” prior round (1987-1999) obligation is 8,880 units.

Prospective Need

The vast majority of the Kinsey report involves a detailed methodology for the calculation of prospective low- and moderate-income housing needs for Regions and municipalities. The calculation of Prospective Need consumes the bulk of the text and calculations in the Kinsey Report and outlines 23 specific steps in the process involved in reaching his conclusions. This 23 step process presents the results of Dr. Kinsey’s calculations for the State and each of the six housing Regions, with additional calculations for each of New Jersey’s minor civil divisions being presented in his Appendix A (Excel workbook).

This review shall not digress into a step-by-step recitation of this laborious process, but shall focus upon the those areas where concerns and issues have been identified.

Projection Period - For the purpose of the Prospective Need projection, (Step 2) Dr. Kinsey has selected the period intervening the end of the prior round cycle (1999) and ten years into the future (2025) yielding a total increment of 26 years, or more than four times the projection (Prospective Need) period in the prior rounds. The selected “projection period” includes prior years (1999-2015) as well as future years (2015-2025) which is departure from the Prior Rounds where the Prospective Need was future years only. As previously noted in Econsult’s review report, the methodology uses varying and overlapping time frames with a potential for double counting. The Present Need is calculated by Dr. Kinsey as 2010 while the Prior Round is the 1987 to 1999

obligation (without adjustments for affordable housing supply). Prospective Need is calculated by Dr. Kinsey as the entire period from 1999 to 2025 that includes both the past (1999-2015) and future (2015-2025). Furthermore, the 20 percent “cap” calculation in Dr. Kinsey’s report is based upon 2012 households rather than the beginning (1999) of his prospective need calculations. These overlapping time frames create apparent overlaps and double counting within the Prospective Need calculation. The overlapping imbedded in Dr. Kinsey’s selection of time frames that are also a divergence from the Prior Rounds. This portion of the Kinsey methodology should be corrected to eliminate overlapping time frames and the potential for double counting.

Population Projection - Population projections are an integral component in the projection of household and low- and moderate-income (LMI) households. For this purpose, Dr. Kinsey has selected the 20 year projections (2012-2032) of the “Economic Demographic Model” prepared by the New Jersey Department of Labor and Workforce Development (NJDOLEWD) and has interpolated these projections for 2025. This data choice deviates somewhat from the Second Round methodology which utilized the New Jersey Department of Labor “Historic Migration Model” and “Economic Demographic Model” and averaged the results of these projections. In the Historic Migration Model, future migration is related to past employment whereas in the Economic Demographic Model, future migration is related to projected employment growth. The averaged projection dampens the distribution of future population growth by allocating shares to central city counties as well as rural and suburban counties. The Economic Demographic model utilized by Dr. Kinsey yields a 2025 population (interpolated) of 9,277,040 persons compared to a 2025 population (interpolated) of 9,196,720 persons projected with the “Historic Migration Model”. An “averaged” projection, similar to the methodology used in the Second Round would amount to 9,236,880, or 40,160 fewer persons than “Economic Demographic Model” used by Dr. Kinsey.

Dr. Kinsey prepares 1999-2025 projections of total population by age cohort and county that are then totaled for each of the six housing regions. The results of these calculations yield a projection of an increase in statewide population from 8,359,592 persons in 1999 to 9,277,040 persons in 2025, representing an increase of 1,027,448 persons over the 26-year projection. This projection includes growth that had already occurred between 1999 and 2015 as well as a projection from 2015 to 25. Dr. Kinsey’s projections of the total (1999-2025) population growth for New Jersey and the six housing regions are further detailed in Table 1.

TABLE 1**PROJECTED TOTAL POPULATION GROWTH
KINSEY REPORT - JULY 2015**

	1999	2025	Population <u>Increase</u>
Bergen	880,225	985,400	105,175
Hudson	603,993	745,040	141,047
Passaic	488,131	527,600	39,469
Sussex	<u>142,750</u>	<u>151,440</u>	<u>8,690</u>
Region 1	2,115,099	2,409,480	294,381
Essex	789,678	807,360	17,682
Morris	467,678	535,880	68,202
Union	520,341	584,100	63,759
Warren	101,040	<u>110,580</u>	<u>9,540</u>
Region 2	1,878,737	2,037,920	159,183
Hunterdon	120,689	131,200	10,511
Middlesex	742,213	891,580	149,367
Somerset	<u>293,770</u>	<u>355,720</u>	<u>61,950</u>
Region 3	1,156,672	1,378,500	221,828
Mercer	348,435	386,020	37,585
Monmouth	610,811	648,680	37,869
Ocean	<u>504,007</u>	<u>616,140</u>	<u>112,133</u>
Region 4	1,463,253	1,650,840	187,587
Burlington	420,542	468,300	47,758
Camden	509,410	523,380	13,970
Gloucester	<u>252,536</u>	<u>306,980</u>	<u>54,444</u>
Region 5	1,182,488	1,298,660	116,172
Atlantic	250,432	281,620	31,188
Cape May	102,135	93,900	-8,235
Cumberland	146,293	161,900	15,607
Salem	<u>64,483</u>	<u>64,220</u>	<u>-263</u>
Region 6	563,343	601,640	38,297
New Jersey	8,359,592	9,377,040	1,017,448

Remove Group Quarters - This step is undertaken to remove “group quarters” population from the projections of total population as these persons residing in institutions and other group quarters are not residents of “households”. The report estimates that 188,884 persons in group quarters were estimated to be within the 2013 statewide population (8,899,339 persons), or 2.12 percent. At the time of the 2010 Census there were 186,876 persons were located in group quarters, or approximately 2.17 percent of the total population compared to 194,821 persons in group quarters (2.31 percent) in 2000. The 2013 estimate of group quarters population is consistent with the declining proportion of persons in group quarters, but projects an increase, rather than a decline in the number of group quarters residents, as observed between the 2000 and 2010 Census.

Headship Rates - In order to estimate the number of occupied households associated with the projected increase in household population, “headship rates”, or the probability that a person is a head of household, are utilized. As discussed by Dr. Kinsey, there are number of economic and demographic factors that influence headship rates, an indicia for household size. Notwithstanding factors that could decrease headship rates (increased household size) or increase headship rates (decreased household) size, the Kinsey report elects to maintain a constant (flat) headship rate. Projected headship rates can have a significant effect on household projections that are based upon population growth, however, Dr. Kinsey has chosen to use a constant (“flat”) headship rate for his 1999 to 2025 projections.

Estimate 1999 and 2025 LMI Households - After deducting group quarters population and establishing a constant (“flat”) headship rate, Dr. Kinsey calculates the number of LMI households within the State and its housing regions at the beginning of the projection period (1999) for Prospective Need and at the conclusion thereof in 2025. These procedures result in the projected number of LMI households in 1999 and 2025. These projections are summarized in Table 2:

TABLE 2
PROJECTED TOTAL AND LMI HOUSEHOLD GROWTH
KINSEY REPORT - JULY 2015

	1999 <u>Households</u>	2025 <u>Households</u>	Household <u>Increase</u>	LMI HH <u>Increase</u>	LMI HH/ Total HH-%
Bergen	329,418	360,646	31,228	25,088	80.34
Hudson	228,596	278,789	50,193	17,889	36.64
Passaic	163,395	174,231	10,836	6,141	56.67
Sussex	<u>50,189</u>	<u>59,652</u>	<u>9,463</u>	<u>6,920</u>	<u>73.13</u>
Region 1	771,598	873,318	101,720	56,038	55.09
Essex	282,262	293,802	11,540	14,049	121.74
Morris	168,631	194,762	26,131	10,739	41.10
Union	185,526	202,177	16,651	15,582	93.58
Warren	<u>38,148</u>	<u>44,314</u>	<u>6,166</u>	<u>6,380</u>	<u>103.47</u>
Region 2	674,567	735,055	60,488	46,750	77.29
Hunterdon	43,158	49,055	5,897	3,598	61.01
Middlesex	263,031	310,089	47,058	33,365	70.90
Somerset	<u>107,740</u>	<u>122,468</u>	<u>14,728</u>	<u>10,192</u>	<u>69.20</u>
Region 3	412,929	481,612	67,683	47,155	69.67
Mercer	124,924	140,972	16,048	15,550	96.90
Monmouth	222,516	247,874	25,358	25,127	99.10
Ocean	<u>197,922</u>	<u>230,633</u>	<u>32,711</u>	<u>28,506</u>	<u>87.14</u>
Region 4	545,363	619,480	74,117	68,193	92.00
Burlington	153,004	173,205	20,201	11,551	57.18
Camden	185,641	197,727	12,086	17,951	148.53
Gloucester	<u>89,833</u>	<u>113,165</u>	<u>23,332</u>	<u>15,865</u>	<u>68.00</u>
Region 5	428,478	484,097	55,619	45,367	81.57
Atlantic	94,191	105,396	11,205	11,617	103.68
Cape May	42,003	36,603	-5,400	-1,513	28.02
Cumberland	<u>48,993</u>	54,258	5,265	6,572	124.82
Salem	24,361	25,058	<u>697</u>	<u>3,808</u>	<u>546.34</u>
Region 6	209,548	221,315	11,767	20,484	174.08
New Jersey	3,043,483	3,414,876	371,393	284,974	76.73

Projected Growth of LMI Households - As detailed in Table 2, the total number of households in New Jersey is projected to increase by 371,393 households between 1999 and 2025 while the number of LMI households is projected to increase by 284,974 households:

<u>New Jersey</u>	<u>1999-2025 Increase</u>
Total Households	371,393
Low & Moderate Income Households	284,974

As indicated in the preceding tabulations, 76.73 percent of the total household growth in New Jersey between 1999 and 2025 is projected by Dr. Kinsey to be represented by households with incomes below 80 percent of the median household income. This is a significant departure from the 41.2 percent share referenced by Dr. Kinsey in Step 6 (Page 41) as well as the 40.622 percent ratio projected for 2024 by Rutgers in the third iteration of the Third Round Rules based upon their analysis of 2007-2011 ACS data. As noted in proposed Third Round Rules (N.J.A.C. 5:99 Appendix A) “.. to the degree that age cohorts are differently composed and growing differently, the low- and moderate-income population will also change as it ages into the future. Nonetheless, almost by definition, about 40 percent (40.622 %) of household growth will be comprised by low- and moderate-income household growth” (emphasis added).

A further review of Dr. Kinsey’s calculations disclose that the proportion of low- and moderate-income households was increased from 1,252,558 households of 3,043,483 households (41.15 percent) in 1999 to 1,537,552 households of 3,414,876 households (45.02 percent) in 2025. The growth (increment) in Dr. Kinsey’s calculations thus amounted to 284,974 LMI households out of 371,393 total households, or 76.73 percent. If a constant LMI ratio had been applied, such as the 40.622 percent ratio discerned by Rutgers, the growth of total households (371,393 households) would have yielded a statewide growth of 150,867 LMI households ($371,393 \times 0.40622 = 150,867$ households as opposed to 284,974 LMI households derived by Dr. Kinsey.

There appear to be several reasons for this discrepancy. The use of a lower LMI ratio at the beginning of the projection period and a different (higher) ratio applied to the end of the projection period is a major factor. Secondly, Dr. Kinsey’s calculation of the LMI ratio uses different sources for estimating the number of households (ACS) and for establishing low- and moderate income levels

(HUD Section 8 household size/family income qualification criteria). These are different sources that are compiled for different purposes, and their intermixing results in a calculation that suggests that in 2025, 45.01 percent of all households would be LMI households. The median is the point at which 50 percent of the households will be both above and below that level. If LMI households grow to 45.02 percent of all households in 2025, they would account for over 90 percent of the total households below the (50 percent) median.

The incremental increase in LMI ratio over the 1999-2025 projection period suggests a disproportionate increase LMI households which, in this instance amounts to 76.73 percent of the total projected 1999-2025 New Jersey household growth and 92.00 percent of the total household growth in housing Region 4. In other areas of the State, as presented in Table 2, the variable LMI ratio would yield increases in the number of LMI households that actually exceed the total household growth.

An increased concentration of LMI households, would serve to reduce the overall median income and restore the 40 percent definitional LMI ratio. If the LMI ratio were revised to a constant 40.622 percent ratio as determined by Rutgers, and applied to the Dr. Kinsey projected increase of 371,393 total households, resulting in a statewide increase of 150,867 LMI households. The total household increase projected by Dr. Kinsey for Ocean County amounts to 28,506 households and, with a constant LMI ratio (0.40622), would yield 11,580 LMI households. This recommended adjustment can be applied within the context of Dr. Kinsey's model to yield adjusted Prospective Needs for Ocean County's municipalities.

Households Headed by 65 Years of Age and Older - The pooling and reallocation of the Statewide and Regional LMI household projections are undertaken to reallocate the working age (< 65 years) LMI households to regions where jobs previously increased while the increase in elderly households (65>) are retained in their original Regions. This is another critical step in Dr. Kinsey's methodology and yields the distribution between working age and elderly households. As detailed on Page 21 in Dr. Kinsey's report, the overwhelming majority of the total growth in LMI households is represented by elderly (> 65 years) households. After the reallocation, the Statewide proportion of the elderly (65 + years) LMI households continue to account for 204,909, or 71.90 percent, of the

total projected (1999-2025) increase of 284,974 LMI households. The reallocated gross Prospective Need is summarized in the below:

**Reallocated LMI Prospective Need
By Region and Age Group 1999-2025**

<u>Region</u>	<u>Under 65</u>	<u>65 +</u>	<u>Total</u>	<u>Percent 65 +</u>
1-Bergen, Hudson Passaic, Sussex	16,039	42,099	58,138	72.36
2- Essex Morris, Union, Warren	14,324	42,655	56,979	74.86
3-Hunterdon, Middlesex,	15,197	36,950	52,147	70.86
4-Mercer, Monmouth, Ocean	17,603	38,379	55,982	68.55
5-Burlington, Camden, Gloucester	9,427	31,166	40,593	76.78
6-Atlantic, Cape May, Cumberland, Salem	<u>7,475</u>	<u>13,660</u>	<u>21,135</u>	<u>64.63</u>
New Jersey	80,065	204,909	284,974	71.90

The preponderance of elderly households in the table produced by Dr. Kinsey on page 21 of his report is a clear and incontrovertible indication of a flaw in the model and methodology utilized. It may be suggested that the households distributions displayed on page 21 are merely a representation of the growth in the number of lower income households and not the households that are intended to benefit from the subsequent calculations of affordable housing needs. They are, nevertheless, the numerical basis of the allocation and reallocation of affordable housing needs that are assigned to regions and subsequently to municipalities for the formulation of their housing elements and fair share plans. Whether this is a misinterpretation or a fundamental methodological flaw is irrelevant to the basic observation that the methodology utilized does not produce an analytically reasonable and defensible result.

Dr. Kinsey's methodology assumes that the total number of households with incomes below 80 percent the Regional medians is representative the prospective need for affordable housing. This approach is inconsistent with the intent of the calculation of prospective need, which is to define the housing need for lower income households, not the total volume of LMI households. The product of this assumption, particularly is a 26 year projection, results in the encompassment of an extraordinary proportion of elderly (65 +) households in the total Prospective Need.

Households will age significantly over the course of a 26-year projection and the mere fact that many households will retire and have retirement incomes that are below 80 percent of the

median, does not define a housing need. The component (71.90 percent) of the total Prospective Need calculation represented by 65 + households is not the result of thousands of lower income senior citizens moving to New Jersey. These older (65 +) households are not seeking employment and have no intention of buying or renting a new home. Most of these elderly households already housed, are aging in place and are not the households that are the target of Mount Laurel zoning initiatives. While some of these households may have income diminished to the extent that they may represent a legitimate housing need, this age cohort would not constitute nearly three quarters of the total Prospective Need in the Kinsey report. To the contrary, FSHC represented to the Appellate Division (In re N.J.A.C. 5:94 and 5:95, 2007), that ".....solid data was available to show that only a small percentage of the households in the housing market for new housing are headed by an individual over sixty-five, or even over 55, and that elderly households were aging in place". Dr. Kinsey has recently reaffirmed this finding in his September 22, 2015 "Response" filed with Judge Jacobson regarding this same issue. In this "Response", Dr. Kinsey used data from the 2014 Current Population Survey and found that, "only 4% of movers were senior 65+, while they constituted 15% of the population. This is intuitively correct, as it is well known and documented that the overwhelming majority of seniors prefer to age in place".

The extraordinary proportion Prospective Need households represented by older households (65 +) was also addressed by Econsult's review report. The Econsult analysis examined LMI households with "significant housing assets" and suggested that this asset test would reduce the number of households in the Prospective Need projections by approximately 34,000 housing units. In COAH's most recent Third Round Rules, Dr. Burchell performed a similar "asset test" calculation using 2007-2011 PUMS data and found that 13.0 percent of the statewide LMI households owned homes with no mortgages and spent less than 38 percent of income on housing costs. In Ocean County, the percentage of LMI households meeting this asset test was 18.7 percent.

The proportion of Prospective Need represented by older (65 +) households needs to be corrected. There have been a variety of opinions advanced in this regard, including suggestions for: 1) the deletion of the entire 65 + component; 2) , new information that senior households represent only 4 percent of moving households; 3) that 13 percent of LMI households have no mortgages and significant assets, and; a representation that attributing the majority of total Prospective Need to

senior households is a fundamental methodological flaw. What proportion of the total Prospective Need is represented by the needs 65 + households ? An appropriate adjustment is somewhere between none and all of the projected number of 65 + households. Until further guidance on this issue is produced, an interim calculation shall be prepared based upon the “asset test” suggested by Econsult review report and further detailed by Region by Dr. Burchell (N.J.A.C 5:99 Appendix C), which reports that the proportion of LMI households with significant assets in Region 4 amounts to 18.7 percent.

A senior household adjustment, which is preliminary in nature and likely to be further refined upon receipt of new information, is recommended to be made using the “asset test” an adjustment to the Prospective Need for Ocean County’s municipalities.

Exempt Urban Aid Municipalities - With the establishment of the number of LMI households in the prior steps, the Kinsey report proceeds to its “Second Phase” which involves the allocation of municipal prospective need. The exemption of qualify urban aid municipalities is the focus of Step 11 and follows the procedures used in the prior rounds. Although the methodology utilized by Dr. Kinsey does not deviate from the prior rounds, new economic circumstances suggest that the list of exempted urban aid municipalities should be reviewed and perhaps revised as increasing proportions of the State’s population and housing growth are now occurring within these exempted urban municipalities. The impact of this exclusion is particularly apparent in Ocean County where one urban aid municipality now accounts for 22.4 percent (32,491/132,882) of the County’s total (2014) private sector jobs and represented nearly one half (49.5 percent) of the County’s total population growth between 2000 and 2010 (32,491/65,651).

The Employment Surrogate - The use of increases in non-residential ratables as a surrogate for employment growth was introduced in the Second Round as a replacement for the employment data prepared by the New Jersey Department of Labor due to locational (address) deficiencies found in the prior data source. The new surrogate may actually be more problematic than the discarded employment data. An increase in non-residential valuation over a period of time indicates the increases in the value (equalized assessed valuation) of non-residential properties, not the number

of commercial and industrial buildings, or their size. Specifically, the valuation surrogate does indicate the number of jobs or increases thereof, it merely reflects increases in value that may be largely unrelated to employment growth. Increases in the valuation of commercial and industrial properties do not reflect vacancies within such properties and can reflect increased valuation, even when employment is declining. This valuation surrogate, however, it is the methodology used in the Second Round calculations.

Secondary Sources - The methodology utilized by Dr. Kinsey involves three “secondary sources” that are used adjust the gross prospective municipal obligations upward or downward. These secondary sources, which include filtering, conversions and demolitions are calculated to have the following impacts on gross Prospective Need:

Less Filtering	-66,652
Less Conversions	-6,006
Plus Demolitions	<u>54,424</u>
Total Secondary Sources	-18,234

As indicated above, the statewide secondary sources (1999-2025) would indicate an 18,234 unit reduction in the statewide (1999-2025) Prospective Need. Contrary to expectations, Dr. Kinsey’s projections show an increase an increase of 7,047 households because his model allocates regional need to municipalities before the adjustment for secondary sources, and municipalities with no obligations does not adjust for secondary source reductions. The secondary source adjustments are municipally-derived and their suggested assignment prior to the allocation of regional need creates a modeling problem that has not been addressed or presented. While the mathematical logic for an adjustment is recognized, this is a modeling issue that is not readily available and the actual benefit would largely accrue to municipalities that have no Prospective Need obligation

The increase in Prospective Need for demolitions assumes the displacement of a household rather than a “vacant” housing unit. Demolitions certainly involve vacant households at the time of demolition but may also represent long-term vacant units in a municipality’s inventory. In ceratin areas, such as Ocean County, many demolitions may involve vacant seasonal housing that are neither subject to full-time occupancy before or after demolition. For example, at the time of the 2010

Census, vacant housing units held for seasonal use accounted for 3.80 percent of the State's total housing units compared to 7.43 percent of the total housing units in Region 4. In Ocean County, 15.13 of the total housing units were vacant and held for seasonal use, a ratio nearly four times (3.98 times) the statewide average. The demolition of vacant units in Region 4, and particularly in Ocean County, are much more likely to represent vacant (seasonal) units that would not create an increased housing need for LMI households.

20 Percent Cap - Municipalities receiving an affordable housing obligation that represents more than 20 percent of their total occupied households estimated for 2012 will have their LMI obligation reduced (capped) at a number that is equivalent to 20 percent of their occupied 2012 households. To the extent that the Prospective Need is calculated from 1999 to 2025, the 20 percent cap should apply to the number of housing units at the beginning of the projection (1999) rather than mid-cycle (2012). There were four municipalities in Ocean County that had their prospective need limited by the 20 percent cap relative to their 2012 housing base. This number would increase significantly if the 1999 housing base of these 25 municipalities were utilized, as many of these municipalities received Prospective Need allocations in Dr. Kinsey's projections that were already approaching 20 percent of their household base.

Overview

The completion of the steps programmed into Dr. Kinsey's analysis results in the final reallocated, secondary source adjusted and capped prospective housing needs for municipalities, their respective regions and the State. The 1999-2025 obligation thus derived amounts to a statewide need for 201,643 units. The corresponding affordable housing obligation for Region 4 is 39,042 LMI housing units that is distributed between Mercer County (7,796 units), Monmouth County (19,140 units) and Ocean County (12,206 units). In concluding, Dr. Kinsey opines that his calculated need for 201,643 LMI housing units amounts to 7,756 units per year if dispersed over a 26 year cycle. The reality of the matter, however, is that sixteen of these years have already passed and ten remaining years to 2025 yields an obligation for 20,164 LMI units per year which exceeds the total annual statewide housing growth of 14,284 units per year projected by Dr. Kinsey between 1999 and 2025 ($317,293 \text{ households} / 26 = 14,284 \text{ households per year}$).

RECOMMENDATIONS

This preceding review has identified several areas where alternative data sources and procedures could be used to yield improved results and these improvements could include the specific model selected for population projections, a revised list of exempted Urban Aid municipalities and an alternative to the use of non-residential valuation as an indicia of employment growth.

Adjustments

There are certain procedures utilized in Dr. Kinney's modeling approach that create significant analytical problems that need to be corrected. There are a total of six (6) areas that warrant adjustments to the calculations of Prospective Need. These recommendations involve revisions in the following areas:

1. Projection Period
2. Prior Activity Reductions
3. Secondary Source Adjustment
3. 20 Percent Cap Calculation
4. Projected Growth of LMI Households
6. Proportion of Elderly 65 + Households

Projection Period -The projection period utilized for Prospective Need extends from 1999 to 2025 and includes a total increment of 26 years, or more than four times the projection (Prospective Need) period in the prior rounds. The selected "projection period" includes prior years (1999-2015) as well as future years (2015-2025) which is departure from the Prior Rounds where the Prospective Need was future years only. Additionally, the 20 percent "cap" calculation in Dr. Kinsey's report is based upon 2012 households rather than the beginning (1999) of his prospective need calculations. These overlapping time frames create an apparent double counting within the Prospective Need calculation and Dr. Kinsey should revise his methodology to eliminate inconsistent and overlapping time frames to avoid the potential for double counting.

Reductions for Prior Activity - Dr. Kinsey's Prospective Need analysis combines a "past" (1999-2015) and "future" (2015-2015) in the 1999 -2025 estimates. With an extended period encompassing both prior and future housing needs, some attempt should have been made to account

for affordable housing produced between 1999 and 2015. Such reductions were incorporated into COAH's last Third Round Estimates. In the absence of adjustments for "priority activity" during the 1999-2015 portion of Prospective Need, this adjustment will have to be made in "individual municipal proceedings"

Secondary Source Adjustment - The secondary sources of filtering, conversions and demolitions calculated by Dr. Kinsey indicate a 18,234 unit reduction in the statewide (1999-2025) Prospective Need rather than an increase of 7,047 households which he derived because the model allocates regional need to municipalities before the adjustment for secondary sources. The secondary source adjustments are municipally-derived and their assignment prior to the allocation of regional need creates a modeling problem that has not been addressed or presented. While the mathematical logic for an adjustment is recognized, this is a modeling issue that Dr. Kinsey should correct.

20 Percent Cap Adjustment - Dr. Kinsey's calculation of the 20 percent cap is based upon a municipality's 2012 household base as opposed to its 1999 housing base at the beginning of the Prospective Need cycle. There were four municipalities in Ocean County that had their prospective need limited by the 20 percent cap relative to their 2012 housing base and this number would increase significantly if the 1999 housing base were utilized, as many Ocean County municipalities received Prospective Need allocations in Dr. Kinsey's projections that were already approaching 20 percent of their 2012 household base. The adjustment for the 20 percent cap, which will be impacted by the other adjustments recommended herein, has been undertaken and included revised allocations.

Projected Growth of LMI Households - Dr. Kinsey's methodology is based upon an increase in LMI households from 41.15 percent in 1999 to 45.02 percent in 2025 that has resulted in 76.73 percent of the total household increase being attributed to lower and moderate income households. If a constant LMI ratio had been applied, such as the 40.622 percent ratio discerned by Rutgers, the growth of total households (371,393 households) would yield a statewide increase of 150,867 LMI households as opposed to 284,974 LMI households derived by Dr. Kinsey. This recommended revision for the use of a constant LMI ratio of 40.622 percent has been applied within

the framework of Dr. Kinsey's model and reduces gross Prospective Need in Ocean County from 28,506 to 11,580 LMI housing units.

Proportion of Elderly 65 + Households - Dr. Kinsey's methodology and results in a projection where the 71.90 percent of the total growth in LMI households is represented by elderly (> 65 years) households. The proportion of Prospective Need represented by older (65 +) households needs to be corrected. There have been a variety of opinions advanced in this regard, including suggestions for: 1) the deletion of the entire 65 + component; 2) , new information that senior households represent only 4 percent of moving households; 3) that 13 percent of LMI households have no mortgages and significant assets, and; a representation that attributing the majority of total Prospective Need to senior households is a fundamental methodological flaw. What proportion of the total Prospective Need is represented by the needs 65 + households ? An appropriate adjustment is somewhere between none and all of the projected number of 65 + households. Until further guidance on this issue is produced, a preliminary adjustment, has been made based upon the "asset test" suggested by Econsult and detailed by Region by Dr. Burchell (N.J.A.C 5:99 Appendix C), deducts the 18.7 percent proportion of LMI households with significant assets in Region 4.

The foregoing recommendations, and specifically those regarding the 20 percent cap, the proportion of LMI households and a reduction for senior (65 +) households have been inputted into the analytical framework of Dr. Kinsey's model to develop preliminary estimates of the affordable obligations for Ocean County's municipalities. These preliminary adjustments are presented for all Ocean County municipalities in Appendix 1, and the effect of the Ocean County's recommended adjustments applied to Region 4 and New Jersey are summarized below:

Kinsey Methodology and Recommended Adjusted Need

<u>Prospective Need</u>	<u>Kinsey</u>	<u>Adjusted</u>
Mercer County	7,696	3,889
Monmouth County	19,140	11,870
Ocean County	<u>12,206</u>	<u>8,632</u>
Region 4	39,042	24,391
New Jersey	201,643	126,566

APPENDIX 1

Summary, Adjusted Affordable Housing Obligations						TOTAL
Municipality	County	Region	Present Need, 2010 (units)	Prior Round Obligation, 1987-1999 (units)	Third Round Net Prospective Need, 1999- 2025 (units)	
Barnegat Light Borough	Ocean	4	6	84	38	128
Barnegat Township	Ocean	4	-	329	411	740
Bay Head Borough	Ocean	4	6	65	97	168
Beach Haven Borough	Ocean	4	-	70	122	192
Beachwood Borough	Ocean	4	33	123	148	304
Berkeley Township	Ocean	4	94	610	-	704
Brick Township	Ocean	4	189	930	1,000	2,119
Toms River Township	Ocean	4	243	1,735*	1,000	2,978
Eagleswood Township	Ocean	4	-	36	22	58
Harvey Cedars Borough	Ocean	4	7	37	56	99
Island Heights Borough	Ocean	4	2	31	55	88
Jackson Township	Ocean	4	105	1,247	1,000	2,352
Lacey Township	Ocean	4	54	580	493	1,128
Lakehurst Borough	Ocean	4	16	66	21	103
Lakewood Township	Ocean	4	534	-	-	534
Lavallette Borough	Ocean	4	-	82	182	264
Little Egg Harbor Township	Ocean	4	124	194	546	864
Long Beach Township	Ocean	4	23	41	219	283
Manchester Township	Ocean	4	120	370	655	1,145
Mantoloking Borough	Ocean	4	-	59	46	105
Ocean Gate Borough	Ocean	4	10	12	16	37
Ocean Township	Ocean	4	9	236	241	486
Pine Beach Borough	Ocean	4	-	41	51	92
Plumsted Township	Ocean	4	21	47	142	210
Point Pleasant Beach Borough	Ocean	4	55	167	270	492
Point Pleasant Borough	Ocean	4	26	343	535	903
Seaside Heights Borough	Ocean	4	95	-	100	195
Seaside Park Borough	Ocean	4	3	52	119	174
Ship Bottom Borough	Ocean	4	-	71	113	184
South Toms River Borough	Ocean	4	47	51	-	98
Stafford Township	Ocean	4	94	555	717	1,366
Surf City Borough	Ocean	4	-	49	160	209
Tuckerton Borough	Ocean	4	81	69	59	209
			1,997	8,382*	8,632	19,011

* Corrected to reflect error from 2,233 to 1,735 units.