Federal Fair Housing Act

Prohibits Discrimination in housing

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

Protected Classes

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

Goals of FHA

Elimination of segregation and equal access to housing opportunities

Affirmatively Furthering Fair Housing

 All HUD funded programs must be administered in a way that affirmatively furthers fair housing principles of promoting integration and eliminating segregation

 New Hampshire and its entitlement communities (Dover, Manchester, Nashua, Portsmouth, Rochester) must conduct analyses of impediments to fair housing (AI)

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

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

The Law of Affordable Housing in NH

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

2008 – Workforce Housing Law

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

Definitions RSA 674:58

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

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

- Appeals—RSA 674:61
 - Denial or conditions that have a substantial adverse effect on the project's viability. Burden of proof is on developer
 - Hearing on the merits within <u>6 months</u>
 - If the "builder's remedy" is imposed by court, it shall include affordability restrictions
 - Affordability restrictions may be required by the planning board as a condition

Inclusionary Zoning

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

What's Been the Local Response?

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

Conservation Subdivisions



Shaker Heights, Chester

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

Mixed-Use Infill Development



Adaptive Re-use

RSA 79-E

Community Revitalization Tax Relief Incentive



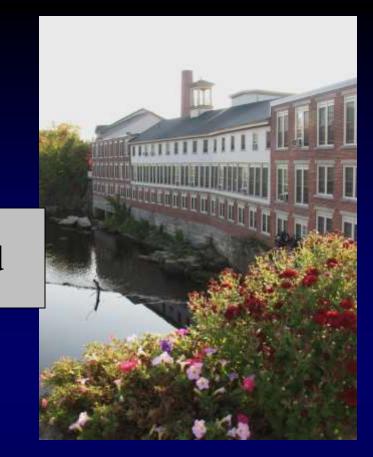
Dow Academy, Franconia



Former Industrial Building, Exeter

Adaptive Re-use

Milford Mill, Milford





Converted Farmhouse, Hopkinton

Affordable Single-Family Homes



Peacock Brook, Amherst, NH

Accessory Apartments

Accessory
Apartment,
Warner, NH



Why Do We Still Need This?

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