



## **Frequently Asked Questions on S4451 and A5567**

### **Who initiated this proposed legislation?**

APA New Jersey has always offered State and local elected officials and policy makers with thoughtful and objective professional advice and perspective on a wide range of planning issues.

In recognition of the collective expertise and experience of its members, the Chapter was approached by the Governor's office and asked to provide recommendations regarding legislation that would help create new opportunities for the development of housing that would meet the needs of the State's population and assist in the crafting of this legislation.

In response to this request and understanding that planning and zoning in New Jersey takes place primarily at the local level, the Chapter recommended that MLUL be amended to create a more holistic and comprehensive housing plan element that identifies the need for housing for all segments of the community and encompasses a wide variety of housing types, and not just the municipality's obligation to address its fair share of low and moderate-income housing required pursuant the Mount Laurel doctrine.

Updating the requirements of the housing plan element and better integrating it into the comprehensive planning process of the municipality has been a long-standing policy objective of APA-New Jersey and this legislation advances these objectives.

### **Does the bill require municipalities to create certain types of housing?**

No. The proposed bill does not create a new mandate for any specific type of housing but better integrates the current statutory requirements for the housing plan and land use plan elements of the master plan by clarifying and making explicit the essential linkages between the municipality's housing and land use planning policies which form the foundation of the local zoning ordinance. The decision on which type, or types, of housing will result from the planning process in which the community will have input.



**Will the bill result in significant new costs for municipalities?**

No. The result will be a more efficient and effective planning process. As we stated in our testimony before the Senate Community and Urban Affairs Committee:

“The proposed bill will result in more efficient local planning by coordinating and integrating the housing planning process with the other currently required planning responsibilities of the municipality, including the municipality’s land use plan. As a result, the proposed bill will result in minimal additional costs for municipalities given that much of what is required in the bill is now undertaken under a variety of existing laws governing local planning and housing. In fact, by coordinating these efforts and avoiding duplication, the resulting costs for municipalities will likely be reduced.”

**Are you changing the MLUL to create a new mandate that municipalities prepare and adopt a housing plan?**

No new statutory mandate is being created.

Pursuant to the Municipal Land Use Law (MLUL) a housing plan element is currently required for a municipality to have a valid zoning ordinance. Specifically, N.J.S.A. 40:55D-62. “Power to zone” specifies that the zoning ordinance:

“...shall be adopted after the planning board has adopted the land use plan element and the housing plan element of a master plan, and all of the provisions of such zoning ordinance or any amendment or revision thereto shall either be substantially consistent with the land use plan element and the housing plan element of the master plan or designed to effectuate such plan elements;” (emphasis added)

The bill simply corrects a technical inconsistency and the contradictory statutory language between Sections 28 of the MLUL (the contents of the master plan), which currently states that the housing plan element is an optional element of the master plan and Section 62 of the MLUL which clearly requires that a housing plan element of the master plan be adopted before the governing body can adopt the zoning ordinance.



### **Why is this bill important?**

Most important, the bill updates the requirements of the housing plan element to be a true and fully comprehensive housing plan for the municipality and not one just focused on the municipality's obligation to address its fair share of the regional low- and moderate-income housing need. This will provide the comprehensive planning foundation needed to create effective and integrated land use and housing policies at the local level that meet the needs of the entire community.

### **If the bill is enacted into law will all municipalities be required to immediately update their master plans and housing plan elements?**

The bill does not require that municipalities "immediately" update their master plans; nor will it impact master plans, including land use plan and housing plan elements, that have been adopted and are currently being implemented through municipal zoning ordinances and redevelopment plans that have been determined substantially consistent with those plans. It also will not impact developments that are in progress.

### **Will municipalities need to immediately update their zoning ordinances to comply with the law?**

Ultimately zoning maps will have to be updated, but not until new housing and land use plans are adopted. In fact, that is the statutory requirement now in place that ensures consistency between the housing plan, the land use plan, and zoning ordinance. It is not a new requirement, nor will it require immediate and wholesale revisions to municipal zoning ordinances.

### **How can we ensure that existing plans and ordinances will not be affected?**

To address any concern about the effect of the bill on currently adopted plans and ordinances, APA New Jersey has proposed that the bill be amended to include language similar to that included in the recent amendment to the MLUL which requires that a climate change-related hazard vulnerability assessment (CCRHVA) be included in the land use plan element of the master plan. That legislation specified that a CCRHVA is required only



“...for any land use plan element adopted after the effective date of [this statute].” We propose that a similar provision be added to the bill, and we will work with the legislative sponsors to include this language in the final version of the bill.

**Will the bill affect existing redevelopment plans, or the redevelopment process in the Local Redevelopment and Housing Law?**

The bill does not affect the requirements of the Local Redevelopment and Housing Law (LRHL) or the way municipalities designate areas in need of redevelopment or rehabilitation, prepare and adopt redevelopment plans, and effectuate redevelopment projects through redevelopment agreements with selected redevelopers. Neither does it affect adopted redevelopment plans or approved redevelopment projects. Simply, it requires that the land use plan identify any adopted redevelopment plans and areas designated in need of redevelopment or rehabilitation. That is common sense and consistent with the intent of the land use plan element, which is to identify existing and proposed land uses in the municipality. It also is recognized that many municipalities now include redevelopment as an important implementation tool for their housing plans and its use as such should be recognized in both the housing and land use plan elements of the master plan.

**Are there opportunities to address any technical concerns and issues before the bill is passed into law?**

It is anticipated that there will be further discussions with interested parties and the legislative sponsors as the bill continues to move forward.

APA New Jersey is committed to working with all interested parties and organizations to ensure that the bill achieves broad-based support and consensus. However, the Chapter is also committed to ensuring that the fundamental objective of the bill is achieved and its core provisions remain in place. Specifically, we seek a bill that transforms the housing plan element from its current focus on just low- and moderate-income housing into a true comprehensive housing plan that addresses the housing needs of the entire community, including the variety of housing types necessary to address that need.