

## Fair Share Analysis

The following is a [Plan-link](#) posting from Ben Frost ([NH Housing](#)) on 1/26/09:

"Dwight (et al.), you are correct that it is not within the specific statutory purview of RPCs to do fair share analyses (i.e., they are not required to do them), but they may choose to do them if they and their communities wish. Such an analysis would not be dispositive but would likely carry significant weight in court, if the issue were litigated.

There is a variety of methodologies available to address the question of fair share. To overcome what we saw as flaws in traditional methodologies (importantly, that they can induce sprawl), New Hampshire Housing hired Bruce Mayberry to create a new methodology for use by the state's RPCs and municipalities. It can be found here: [http://www.nhhfa.org/rl\\_docs/housingdata/housing\\_needs\\_assessment/Appendix2.pdf](http://www.nhhfa.org/rl_docs/housingdata/housing_needs_assessment/Appendix2.pdf). It is part of a larger document that provides a model needs assessment methodology.

The proportionate distribution (read: "fair share") model that Bruce created for us addresses the points that an appropriate methodology should:

- Center on allocating the solution (a portion of anticipated housing development) at a reasonable scale, rather than the entire problem (total renter households of a given income with a high cost burden);
- Be based on providing a portion of the total rental housing production needed to sustain economic development and job growth within a region;
- Distinguish between the elderly and family components of low income rental housing need and available supply;
- Favor the concentration of lower income multifamily and rental housing near job and service centers, avoiding an over-allocation of housing to outlying rural areas;
- Consider the relative fiscal capacity of municipalities, with respect to both property wealth and household income;
- Recognize the existing supply of lower income housing that is in some regions highly concentrated in relatively few communities.

But I'll repeat what I've said before—if a community is providing the opportunity for affordable housing development, then it doesn't need to concern itself with an analysis of fair share. Such an analysis is relevant only to the extent that a community wants to find safe harbor from the statute's requirements. I know that there are some who are frustrated by the statute's lack of a definition of what fair share is or how it should be determined, but in this regard the statute merely mirrors the NH Supreme Court's 1991 opinion in *Britton v. Chester*. Fair share is not a new legal requirement; that safe harbor has always been there, but without specific definition."

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