

1 AN ACT concerning housing.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Counties Code is amended by changing Section
5 5-12001 as follows:

6 (55 ILCS 5/5-12001) (from Ch. 34, par. 5-12001)

7 Sec. 5-12001. Authority to regulate and restrict location
8 and use of structures.

9 For the purpose of promoting the public health, safety,
10 morals, comfort and general welfare, conserving the values of
11 property throughout the county, lessening or avoiding
12 congestion in the public streets and highways, and lessening or
13 avoiding the hazards to persons and damage to property
14 resulting from the accumulation or runoff of storm or flood
15 waters, the county board or board of county commissioners, as
16 the case may be, of each county, shall have the power to
17 regulate and restrict the location and use of buildings,
18 structures and land for trade, industry, residence and other
19 uses which may be specified by such board, to regulate and
20 restrict the intensity of such uses, to establish building or
21 setback lines on or along any street, trafficway, drive,
22 parkway or storm or floodwater runoff channel or basin outside
23 the limits of cities, villages and incorporated towns which
24 have in effect municipal zoning ordinances; to divide the
25 entire county outside the limits of such cities, villages and
26 incorporated towns into districts of such number, shape, area
27 and of such different classes, according to the use of land and
28 buildings, the intensity of such use (including height of
29 buildings and structures and surrounding open space) and other
30 classification as may be deemed best suited to carry out the
31 purposes of this Division; to prohibit uses, buildings or
32 structures incompatible with the character of such districts

1 respectively; and to prevent additions to and alteration or
2 remodeling of existing buildings or structures in such a way as
3 to avoid the restrictions and limitations lawfully imposed
4 hereunder: Provided, that permits with respect to the erection,
5 maintenance, repair, alteration, remodeling or extension of
6 buildings or structures used or to be used for agricultural
7 purposes shall be issued free of any charge. The corporate
8 authorities of the county may by ordinance require the
9 construction of fences around or protective covers over
10 previously constructed artificial basins of water dug in the
11 ground and used for swimming or wading, which are located on
12 private residential property and intended for the use of the
13 owner and guests. In all ordinances or resolutions passed under
14 the authority of this Division, due allowance shall be made for
15 existing conditions, the conservation of property values, the
16 directions of building development to the best advantage of the
17 entire county, and the uses to which property is devoted at the
18 time of the enactment of any such ordinance or resolution.

19 The powers by this Division given shall not be exercised so
20 as to deprive the owner of any existing property of its use or
21 maintenance for the purpose to which it is then lawfully
22 devoted, but provisions may be made for (i) the gradual
23 elimination of the uses of unimproved lands or lot areas when
24 the existing rights of the persons in possession are terminated
25 or when the uses to which they are devoted are discontinued,
26 (ii) the gradual elimination of uses to which the buildings and
27 structures are devoted if they are adaptable to permitted uses,
28 and (iii) the gradual elimination of the buildings and
29 structures when they are destroyed or damaged in major part;
30 nor shall they be exercised so as to impose regulations,
31 eliminate uses, buildings, or structures, or require permits
32 with respect to land used for agricultural purposes, which
33 includes the growing of farm crops, truck garden crops, animal
34 and poultry husbandry, apiculture, aquaculture, dairying,
35 floriculture, horticulture, nurseries, tree farms, sod farms,
36 pasturage, viticulture, and wholesale greenhouses when such

1 agricultural purposes constitute the principal activity on the
2 land, other than parcels of land consisting of less than 5
3 acres from which \$1,000 or less of agricultural products were
4 sold in any calendar year in counties with a population between
5 300,000 and 400,000 or in counties contiguous to a county with
6 a population between 300,000 and 400,000, and other than
7 parcels of land consisting of less than 5 acres in counties
8 with a population in excess of 400,000, or with respect to the
9 erection, maintenance, repair, alteration, remodeling or
10 extension of buildings or structures used or to be used for
11 agricultural purposes upon such land except that such buildings
12 or structures for agricultural purposes may be required to
13 conform to building or set back lines and counties may
14 establish a minimum lot size for residences on land used for
15 agricultural purposes; nor shall any such powers be so
16 exercised as to prohibit the temporary use of land for the
17 installation, maintenance and operation of facilities used by
18 contractors in the ordinary course of construction activities,
19 except that such facilities may be required to be located not
20 less than 1,000 feet from any building used for residential
21 purposes, and except that the period of such temporary use
22 shall not exceed the duration of the construction contract; nor
23 shall any such powers include the right to specify or regulate
24 the type or location of any poles, towers, wires, cables,
25 conduits, vaults, laterals or any other similar distributing
26 equipment of a public utility as defined in the Public
27 Utilities Act, if the public utility is subject to the Messages
28 Tax Act, the Gas Revenue Tax Act or the Public Utilities
29 Revenue Act, or if such facilities or equipment are located on
30 any rights of way and are used for railroad purposes, nor shall
31 any such powers be exercised with respect to uses, buildings,
32 or structures of a public utility as defined in the Public
33 Utilities Act, nor shall any such powers be exercised in any
34 respect as to the facilities, as defined in Section 5-12001.1,
35 of a telecommunications carrier, as also defined therein,
36 except to the extent and in the manner set forth in Section

1 5-12001.1. As used in this Act, "agricultural purposes" do not
2 include the extraction of sand, gravel or limestone, and such
3 activities may be regulated by county zoning ordinance even
4 when such activities are related to an agricultural purpose.

5 Nothing in this Division shall be construed to restrict the
6 powers granted by statute to cities, villages and incorporated
7 towns as to territory contiguous to but outside of the limits
8 of such cities, villages and incorporated towns. Any zoning
9 ordinance enacted by a city, village or incorporated town shall
10 supersede, with respect to territory within the corporate
11 limits of the municipality, any county zoning plan otherwise
12 applicable. The powers granted to counties by this Division
13 shall be treated as in addition to powers conferred by statute
14 to control or approve maps, plats or subdivisions. In this
15 Division, "agricultural purposes" include, without limitation,
16 the growing, developing, processing, conditioning, or selling
17 of hybrid seed corn, seed beans, seed oats, or other farm
18 seeds.

19 Nothing in this Division shall be construed to prohibit the
20 corporate authorities of a county from adopting an ordinance
21 that exempts pleasure driveways or park districts, as defined
22 in the Park District Code, with a population of greater than
23 100,000, from the exercise of the county's powers under this
24 Division.

25 The powers granted by this Division may be used to promote
26 the creation and preservation of affordable housing, including
27 the power to provide increased density or other zoning
28 incentives to developers who are building affordable housing.

29 (Source: P.A. 89-654, eff. 8-14-96; 90-261, eff. 1-1-98;
30 90-522, eff. 1-1-98; 90-655, eff. 7-30-98; 90-661, eff.
31 7-30-98.)

32 Section 10. The Illinois Municipal Code is amended by
33 changing Section 11-13-1 as follows:

34 (65 ILCS 5/11-13-1) (from Ch. 24, par. 11-13-1)

1 Sec. 11-13-1. To the end that adequate light, pure air, and
2 safety from fire and other dangers may be secured, that the
3 taxable value of land and buildings throughout the municipality
4 may be conserved, that congestion in the public streets may be
5 lessened or avoided, that the hazards to persons and damage to
6 property resulting from the accumulation or runoff of storm or
7 flood waters may be lessened or avoided, and that the public
8 health, safety, comfort, morals, and welfare may otherwise be
9 promoted, and to insure and facilitate the preservation of
10 sites, areas, and structures of historical, architectural and
11 aesthetic importance; the corporate authorities in each
12 municipality have the following powers:

13 (1) To regulate and limit the height and bulk of
14 buildings hereafter to be erected; (2) to establish,
15 regulate and limit, subject to the provisions of Division
16 14 of this Article 11, the building or set-back lines on or
17 along any street, traffic-way, drive, parkway or storm or
18 floodwater runoff channel or basin; (3) to regulate and
19 limit the intensity of the use of lot areas, and to
20 regulate and determine the area of open spaces, within and
21 surrounding such buildings; (4) to classify, regulate and
22 restrict the location of trades and industries and the
23 location of buildings designed for specified industrial,
24 business, residential, and other uses; (5) to divide the
25 entire municipality into districts of such number, shape,
26 area, and of such different classes (according to use of
27 land and buildings, height and bulk of buildings, intensity
28 of the use of lot area, area of open spaces, or other
29 classification) as may be deemed best suited to carry out
30 the purposes of this Division 13; (6) to fix standards to
31 which buildings or structures therein shall conform; (7) to
32 prohibit uses, buildings, or structures incompatible with
33 the character of such districts; (8) to prevent additions
34 to and alteration or remodeling of existing buildings or
35 structures in such a way as to avoid the restrictions and
36 limitations lawfully imposed under this Division 13; (9) to

1 classify, to regulate and restrict the use of property on
2 the basis of family relationship, which family
3 relationship may be defined as one or more persons each
4 related to the other by blood, marriage or adoption and
5 maintaining a common household; ~~and~~ (10) to regulate or
6 forbid any structure or activity which may hinder access to
7 solar energy necessary for the proper functioning of a
8 solar energy system, as defined in Section 1.2 of The
9 Comprehensive Solar Energy Act of 1977; and (11) to promote
10 the creation and preservation of affordable housing,
11 including the power to provide increased density or other
12 zoning incentives to developers who are building
13 affordable housing.

14 The powers enumerated may be exercised within the corporate
15 limits or within contiguous territory not more than one and
16 one-half miles beyond the corporate limits and not included
17 within any municipality. However, if any municipality adopts a
18 plan pursuant to Division 12 of Article 11 which plan includes
19 in its provisions a provision that the plan applies to such
20 contiguous territory not more than one and one-half miles
21 beyond the corporate limits and not included in any
22 municipality, then no other municipality shall adopt a plan
23 that shall apply to any territory included within the territory
24 provided in the plan first so adopted by another municipality.
25 No municipality shall exercise any power set forth in this
26 Division 13 outside the corporate limits thereof, if the county
27 in which such municipality is situated has adopted "An Act in
28 relation to county zoning", approved June 12, 1935, as amended.
29 Nothing in this Section prevents a municipality of more than
30 112,000 population located in a county of less than 185,000
31 population that has adopted a zoning ordinance and the county
32 that adopted the zoning ordinance from entering into an
33 intergovernmental agreement that allows the municipality to
34 exercise its zoning powers beyond its territorial limits;
35 provided, however, that the intergovernmental agreement must
36 be limited to the territory within the municipality's planning

1 jurisdiction as defined by law or any existing boundary
2 agreement. The county and the municipality must amend their
3 individual zoning maps in the same manner as other zoning
4 changes are incorporated into revised zoning maps. No such
5 intergovernmental agreement may authorize a municipality to
6 exercise its zoning powers, other than powers that a county may
7 exercise under Section 5-12001 of the Counties Code, with
8 respect to land used for agricultural purposes. This amendatory
9 Act of the 92nd General Assembly is declarative of existing
10 law. No municipality may exercise any power set forth in this
11 Division 13 outside the corporate limits of the municipality
12 with respect to a facility of a telecommunications carrier
13 defined in Section 5-12001.1 of the Counties Code.

14 Notwithstanding any other provision of law to the contrary,
15 at least 30 days prior to commencing construction of a new
16 telecommunications facility within 1.5 miles of a
17 municipality, the telecommunications carrier constructing the
18 facility shall provide written notice of its intent to
19 construct the facility. The notice shall include, but not be
20 limited to, the following information: (i) the name, address,
21 and telephone number of the company responsible for the
22 construction of the facility and (ii) the address and telephone
23 number of the governmental entity that issued the building
24 permit for the telecommunications facility. The notice shall be
25 provided in person, by overnight private courier, or by
26 certified mail to all owners of property within 250 feet of the
27 parcel in which the telecommunications carrier has a leasehold
28 or ownership interest. For the purposes of this notice
29 requirement, "owners" means those persons or entities
30 identified from the authentic tax records of the county in
31 which the telecommunications facility is to be located. If,
32 after a bona fide effort by the telecommunications carrier to
33 determine the owner and his or her address, the owner of the
34 property on whom the notice must be served cannot be found at
35 the owner's last known address, or if the mailed notice is
36 returned because the owner cannot be found at the last known

1 address, the notice requirement of this paragraph is deemed
2 satisfied. For the purposes of this paragraph, "facility" means
3 that term as it is defined in Section 5-12001.1 of the Counties
4 Code.

5 If a municipality adopts a zoning plan covering an area
6 outside its corporate limits, the plan adopted shall be
7 reasonable with respect to the area outside the corporate
8 limits so that future development will not be hindered or
9 impaired; it is reasonable for a municipality to regulate or
10 prohibit the extraction of sand, gravel, or limestone even when
11 those activities are related to an agricultural purpose. If all
12 or any part of the area outside the corporate limits of a
13 municipality which has been zoned in accordance with the
14 provisions of this Division 13 is annexed to another
15 municipality or municipalities, the annexing unit shall
16 thereafter exercise all zoning powers and regulations over the
17 annexed area.

18 In all ordinances passed under the authority of this
19 Division 13, due allowance shall be made for existing
20 conditions, the conservation of property values, the direction
21 of building development to the best advantage of the entire
22 municipality and the uses to which the property is devoted at
23 the time of the enactment of such an ordinance. The powers
24 conferred by this Division 13 shall not be exercised so as to
25 deprive the owner of any existing property of its use or
26 maintenance for the purpose to which it is then lawfully
27 devoted, but provisions may be made for the gradual elimination
28 of uses, buildings and structures which are incompatible with
29 the character of the districts in which they are made or
30 located, including, without being limited thereto, provisions
31 (a) for the elimination of such uses of unimproved lands or lot
32 areas when the existing rights of the persons in possession
33 thereof are terminated or when the uses to which they are
34 devoted are discontinued; (b) for the elimination of uses to
35 which such buildings and structures are devoted, if they are
36 adaptable for permitted uses; and (c) for the elimination of

1 such buildings and structures when they are destroyed or
2 damaged in major part, or when they have reached the age fixed
3 by the corporate authorities of the municipality as the normal
4 useful life of such buildings or structures.

5 This amendatory Act of 1971 does not apply to any
6 municipality which is a home rule unit.

7 (Source: P.A. 92-509, eff. 1-1-02; 93-698, eff. 7-9-04.)

8 Section 15. The Affordable Housing Planning and Appeal Act
9 is amended by changing Sections 15, 25, 30, and 50 and by
10 adding Section 60 as follows:

11 (310 ILCS 67/15)

12 Sec. 15. Definitions. As used in this Act:

13 "Affordable housing" means housing that has a sales price
14 or rental amount that is within the means of a household that
15 may occupy moderate-income or low-income housing. In the case
16 of dwelling units for sale, housing that is affordable means
17 housing in which mortgage, amortization, taxes, insurance, and
18 condominium or association fees, if any, constitute no more
19 than 30% of the gross annual household income for a household
20 of the size that may occupy the unit. In the case of dwelling
21 units for rent, housing that is affordable means housing for
22 which the rent and utilities constitute no more than 30% of the
23 gross annual household income for a household of the size that
24 may occupy the unit.

25 "Affordable housing developer" means a nonprofit entity,
26 limited equity cooperative or public agency, or private
27 individual, firm, corporation, or other entity seeking to build
28 an affordable housing development.

29 "Affordable housing development" means (i) any housing
30 that is subsidized by the federal or State government or (ii)
31 any housing in which at least 20% of the dwelling units are
32 subject to covenants or restrictions that require that the
33 dwelling units be sold or rented at prices that preserve them
34 as affordable housing for a period of at least 15 years, in the

1 case of for-sale housing, and at least 30 years, in the case of
2 rental housing.

3 "Approving authority" means the governing body of the
4 county or municipality.

5 "Area median household income" means the median household
6 income adjusted for family size for applicable income limit
7 areas as determined annually by the federal Department of
8 Housing and Urban Development under Section 8 of the United
9 States Housing Act of 1937.

10 "Community land trust" means a private, not-for-profit
11 corporation organized exclusively for charitable, cultural,
12 and other purposes and created to acquire and own land for the
13 benefit of the local government, including the creation and
14 preservation of affordable housing.

15 "Development" means any building, construction,
16 renovation, or excavation or any material change in the use or
17 appearance of any structure or in the land itself; the division
18 of land into parcels; or any change in the intensity or use of
19 land, such as an increase in the number of dwelling units in a
20 structure or a change to a commercial use.

21 "Exempt local government" means any local government in
22 which at least 10% of its total year-round housing units are
23 affordable, as determined by the Illinois Housing Development
24 Authority pursuant to Section 20 of this Act; or any
25 municipality under 1,000 population.

26 "Household" means the person or persons occupying a
27 dwelling unit.

28 "Housing trust fund" means a separate fund within a local
29 government established solely for the purpose of holding and
30 disbursing financial resources to address the affordable
31 housing needs of individuals or households that may occupy
32 low-income or moderate-income housing.

33 "Local government" means a county or municipality.

34 "Low-income housing" means housing that is affordable,
35 according to the federal Department of Housing and Urban
36 Development, for either home ownership or rental, and that is

1 occupied, reserved, or marketed for occupancy by households
2 with a gross household income that does not exceed 50% of the
3 area median household income.

4 "Moderate-income housing" means housing that is
5 affordable, according to the federal Department of Housing and
6 Urban Development, for either home ownership or rental, and
7 that is occupied, reserved, or marketed for occupancy by
8 households with a gross household income that is greater than
9 50% but does not exceed 80% of the area median household
10 income.

11 "Non-appealable local government requirements" means all
12 essential requirements that protect the public health and
13 safety, including any local building, electrical, fire, or
14 plumbing code requirements or those requirements that are
15 critical to the protection or preservation of the environment.

16 (Source: P.A. 93-595, eff. 1-1-04; 93-678, eff. 6-28-04.)

17 (310 ILCS 67/25)

18 Sec. 25. Affordable housing plan.

19 (a) Prior to April 1, 2005, all non-exempt local
20 governments must approve an affordable housing plan. Upon
21 recalculation of the non-exempt list under Section 20 using new
22 decennial census data, any local government determined to be
23 non-exempt for the first time by the Illinois Housing
24 Development Authority shall have 18 months from the date of
25 notification of its non-exempt status to approve an affordable
26 housing plan under this Act.

27 (b) For the purposes of this Act, the affordable housing
28 plan shall consist of at least the following:

29 (i) a statement of the total number of affordable
30 housing units that are necessary to exempt the local
31 government from the operation of this Act as defined in
32 Section 15 and Section 20;

33 (ii) an identification of lands within the
34 jurisdiction that are most appropriate for the
35 construction of affordable housing and of existing

1 structures most appropriate for conversion to, or
2 rehabilitation for, affordable housing, including a
3 consideration of lands and structures of developers who
4 have expressed a commitment to provide affordable housing
5 and lands and structures that are publicly or semi-publicly
6 owned;

7 (iii) incentives that local governments may provide
8 for the purpose of attracting affordable housing to their
9 jurisdiction; and

10 (iv) a goal of a minimum of 15% of all new development
11 or redevelopment within the local government that would be
12 defined as affordable housing in this Act; or a minimum of
13 a 3 percentage point increase in the overall percentage of
14 affordable housing within its jurisdiction, as described
15 in subsection (b) of Section 20 of this Act; or a minimum
16 of a total of 10% affordable housing within its
17 jurisdiction as described in subsection (b) of Section 20
18 of this Act. These goals may be met, in whole or in part,
19 through the creation of affordable housing units under
20 intergovernmental agreements as described in subsection
21 (e) of this Section.

22 (c) Within 60 days after the adoption of an affordable
23 housing plan or revisions to its affordable housing plan, the
24 local government must submit a copy of that plan to the
25 Illinois Housing Development Authority.

26 (d) In order to promote the goals of this Act and to
27 maximize the creation of affordable housing throughout the
28 State of Illinois, a local government, whether exempt or
29 non-exempt under this Act, may adopt the following measures to
30 address the need for affordable housing:

31 (1) A local government may create a housing trust fund,
32 which may be used, without limitation, to support the
33 following affordable housing activities:

34 (A) Housing production, including, without
35 limitation, new construction, rehabilitation, and
36 adaptive re-use.

1 (B) Acquisition, including, without limitation,
2 vacant land, single-family homes, multi-unit
3 buildings, and other existing structures that may be
4 used in whole or in part for residential use.

5 (C) Rental payment assistance.

6 (D) Home-ownership purchase assistance.

7 (E) Preservation of existing affordable housing.

8 (F) Weatherization.

9 (G) Emergency repairs.

10 (H) Housing related support services, including
11 homeownership education and financial counseling.

12 (I) Capacity grants to not-for-profit
13 organizations that are actively engaged in addressing
14 the affordable housing needs of low-income and
15 moderate-income households.

16 Local governments may authorize housing trust funds to
17 accept and utilize funds, property, and other resources
18 from all proper and lawful public and private sources so
19 long as those funds are used solely for addressing the
20 affordable housing needs of individuals or households that
21 may occupy low-income or moderate-income housing.

22 (2) A local government may create a community land
23 trust, which may: acquire developed or undeveloped parcels
24 of land; hold them in perpetuity and for conveyance under
25 long-term ground leases; transfer ownership of any
26 structural improvements on such parcels to lessees; and
27 retain a preemptive option to purchase any such structural
28 improvements at a price determined by a formula ensuring
29 that the improvement remains affordable in perpetuity to
30 individuals or households that may occupy low-income or
31 moderate-income housing.

32 (3) A local government may use its zoning powers to
33 promote the creation and preservation of affordable
34 housing as authorized under Section 5-12001 of the Counties
35 Code and Section 11-13-1 of the Illinois Municipal Code.

36 (4) A local government may accept donations of money or

1 land in order to use those donations to address the
2 affordable housing needs of individuals or households that
3 may occupy low-income or moderate-income housing. These
4 donations may include donations of money or land from
5 developers in lieu of building affordable housing.

6 (e) In order to encourage regional cooperation and the
7 maximum creation of affordable housing in areas lacking such
8 housing in the State of Illinois, any non-exempt local
9 government may enter into intergovernmental agreements with
10 local governments within 10 miles of its corporate boundaries
11 in order to create affordable housing units to meet the goals
12 of this Act. A non-exempt local government may not enter into
13 an intergovernmental agreement, however, with any local
14 government that contains more than 25% affordable housing as
15 determined under Section 20 of this Act. All intergovernmental
16 agreements entered into to create affordable housing units to
17 meet the goals of this Act must also specify how many of the
18 affordable housing units created will be credited to each local
19 government participating in the agreement for purposes of
20 complying with this Act. In specifying how many affordable
21 housing units will be credited to each local government, the
22 same affordable housing unit may not be counted by more than
23 one local government. This subsection (e) is inoperative on and
24 after January 1, 2010.

25 (Source: P.A. 93-595, eff. 1-1-04; 93-678, eff. 6-28-04.)

26 (310 ILCS 67/30)

27 Sec. 30. Appeal to State Housing Appeals Board.

28 (a) (Blank). Beginning January 1, 2006, an affordable
29 housing developer whose application is either denied or
30 approved with conditions that in his or her judgment render the
31 provision of affordable housing infeasible may, within 45 days
32 after the decision, submit to the State Housing Appeals Board
33 information regarding why the developer believes he or she was
34 unfairly denied or conditions were placed upon the tentative
35 approval of the development unless the local government that

1 ~~rendered the decision is exempt under Section 15 or Section 20~~
2 ~~of this Act. The Board shall maintain all information forwarded~~
3 ~~to them by developers and shall compile and make available an~~
4 ~~annual report summarizing the information thus received.~~

5 (b) Beginning January 1, 2009, an affordable housing
6 developer whose application is either denied or approved with
7 conditions that in his or her judgment render the provision of
8 affordable housing infeasible may, within 45 days after the
9 decision, appeal to the State Housing Appeals Board challenging
10 that decision unless the municipality or county that rendered
11 the decision is exempt under Section 15 of this Act. The
12 developer must submit information regarding why the developer
13 believes he or she was unfairly denied or unreasonable
14 conditions were placed upon the tentative approval of the
15 development. In the case of local governments that are
16 determined to be non-exempt for the first time by the Illinois
17 Housing Development Authority under Section 20 using new
18 decennial census data, no developer may appeal to the State
19 Housing Appeals Board until 60 months after a local government
20 has been notified of its non-exempt status.

21 (c) Beginning January 1, 2009, the Board shall render a
22 decision on the appeal within 120 days after the appeal is
23 filed. ~~In its determination of an appeal, the Board shall~~
24 ~~conduct a de novo review of the matter. In rendering its~~
25 ~~decision, the Board shall consider the facts and whether the~~
26 ~~developer was treated in a manner that places an undue burden~~
27 ~~on the development due to the fact that the development~~
28 ~~contains affordable housing as defined in this Act. The Board~~
29 ~~shall further consider any action taken by the unit of local~~
30 ~~government in regards to granting waivers or variances that~~
31 ~~would have the effect of creating or prohibiting the economic~~
32 ~~viability of the development.~~ In any proceeding before the
33 Board, the affordable housing developer bears the burden of
34 demonstrating that the decision of the local government was
35 arbitrary and unreasonable and without substantial relation to
36 the public health, safety, or welfare. ~~he or she has been~~

1 ~~unfairly denied or unreasonable conditions have been placed~~
2 ~~upon the tentative approval for the application for an~~
3 ~~affordable housing development.~~

4 If a developer proves by a preponderance of the evidence
5 that the local government's decision was based on an intent to
6 prohibit or render infeasible the development of affordable
7 housing, then the local government's decision will be deemed to
8 be arbitrary and unreasonable and without substantial relation
9 to the public health, safety, or welfare. In determining
10 whether the developer has proved an intent to prohibit or
11 render infeasible the development of affordable housing, the
12 Board shall consider the following factors:

13 (1) Whether the local government has adopted an
14 affordable housing plan under this Act.

15 (2) Whether the local government has made a good faith
16 effort to implement its affordable housing plan,
17 including, but not limited to, whether the local government
18 has adopted new policies or programs or made an
19 appropriation to help create affordable housing.

20 (3) Whether the local government's regulations have
21 been consistently applied to comparable proposed
22 developments, whether or not the proposals include
23 affordable housing.

24 (4) Evidence of a consistent pattern of behavior by the
25 local government to restrict the economic viability of
26 affordable housing developments.

27 In reviewing the legitimacy of the local government's
28 action as it applies to the specific development in question,
29 the Board's review shall be based solely on the record
30 established during the local government proceedings. However,
31 in determining whether the developer has proved that there is
32 an intent to prohibit or render infeasible the development of
33 affordable housing, the Board, in addition to reviewing the
34 record established at the local level, may examine evidence not
35 introduced in the local government proceeding that is relevant
36 to the factors set forth in items (1) through (4) of this

1 subsection (c).

2 (d) The Board shall dismiss any appeal if:

3 (i) the local government has adopted an affordable
4 housing plan as defined in Section 25 of this Act and
5 submitted that plan to the Illinois Housing Development
6 Authority within the time frame required by this Act; and

7 (ii) the local government has implemented its
8 affordable housing plan and has met its goal as established
9 in its affordable housing plan as defined in Section 25 of
10 this Act.

11 (e) The Board shall dismiss any appeal if the reason for
12 denying the application or placing conditions upon the approval
13 is a non-appealable local government requirement under Section
14 15 of this Act.

15 (f) The Board may affirm, reverse, or modify the conditions
16 of, or add conditions to, a decision made by the approving
17 authority. The decision of the Board constitutes an order
18 directed to the approving authority and is binding on the local
19 government.

20 (g) The appellate court has the exclusive jurisdiction to
21 review decisions of the Board. Any appeal to the Appellate
22 Court of a final ruling by the State Housing Appeals Board may
23 be heard only in the Appellate Court for the District in which
24 the local government involved in the appeal is located.

25 (Source: P.A. 93-595, eff. 1-1-04.)

26 (310 ILCS 67/50)

27 Sec. 50. Housing Appeals Board.

28 (a) Prior to January 1, 2008 ~~July 1, 2006~~, a Housing
29 Appeals Board shall be created consisting of 7 members
30 appointed by the Governor as follows:

31 (1) a retired circuit judge or retired appellate judge,
32 who shall act as chairperson;

33 (2) a zoning board of appeals member;

34 (3) a planning board member;

35 (4) a mayor or municipal council or board member;

- 1 (5) a county board member;
2 (6) an affordable housing developer; and
3 (7) an affordable housing advocate.

4 In addition, the Chairman of the Illinois Housing
5 Development Authority, ex officio, shall serve as a non-voting
6 member. No more than 4 of the appointed members may be from the
7 same political party. Appointments under items (2), (3), and
8 (4) shall be from local governments that are not exempt under
9 this Act.

10 (b) Initial terms of 4 members designated by the Governor
11 shall be for 2 years. Initial terms of 3 members designated by
12 the Governor shall be for one year. Thereafter, members shall
13 be appointed for terms of 2 years. A member shall receive no
14 compensation for his or her services, but shall be reimbursed
15 by the State for all reasonable expenses actually and
16 necessarily incurred in the performance of his or her official
17 duties. The board shall hear all petitions for review filed
18 under this Act and shall conduct all hearings in accordance
19 with the rules and regulations established by the chairperson.
20 The Illinois Housing Development Authority shall provide space
21 and clerical and other assistance that the Board may require.

22 (c) (Blank). ~~The Illinois Housing Development Authority~~
23 ~~may adopt such other rules and regulations as it deems~~
24 ~~necessary and appropriate to carry out the Board's~~
25 ~~responsibilities under this Act and to provide direction to~~
26 ~~local governments and affordable housing developers.~~

27 (Source: P.A. 93-595, eff. 1-1-04.)

28 (310 ILCS 67/60 new)

29 Sec. 60. Rulemaking authority. The Illinois Housing
30 Development Authority shall adopt other rules and regulations
31 as needed to carry out the Board's responsibilities under this
32 Act and to provide direction to local governments and
33 affordable housing developers.

34 Section 99. Effective date. This Act takes effect upon

1 becoming law.