



Lieutenant Governor Sheila Y. Oliver
Office of the Governor
PO Box 001
Trenton, New Jersey 08625

Re: New Land Use Rules
Protecting Against Climate Threats (PACT) Regulations
New Jersey Department of Environmental Protection

Dear Lieutenant Governor Oliver:

Thank you again for meeting with the Greater Atlantic City Chamber of Commerce membership last month. Your enthusiasm for the future of Atlantic City and the region is palpable, and I know that our members appreciated your time and candor.

One of the issues that we discussed briefly during that interview was the pending coastal regulations being proposed by the New Jersey Department of Environmental Protection (NJDEP). The purpose of this letter is to outline the Chamber's position regarding those regulations and request modifications before the rulemaking process begins.

As you know, NJDEP is planning to adopt new land use regulations that the Chamber feels will significantly devalue land and stymie development in Atlantic City but as well in the entire coastal region. While these regulations are aimed at concerns of sea level rise, we believe that they exceed the bounds of reasonableness with rather drastic impacts.

One example is the proposal for five feet of freeboard above the base flood elevation for new construction in the flood zone. Elevating new and substantially improved homes an additional five feet is not only prohibitively expensive but not feasible on many sites. The proposal additionally exceeds federal standards.

The freeboard requirement is based upon sea level rise projections for the year 2100. Municipalities are required to prepare Master Plans with a 20- or 30-year planning horizon and the Chamber would suggest that the State use the same time horizon. The regulations should be adjusted over time to adapt to the impacts of sea level rise and resiliency measures rather being based upon an 80-year projection.

When municipalities impose new regulations, the State requires that they be consistent with the adopted Master Plan after public input and revisions. In this case, NJDEP is proposing drastic regulatory changes without a completed Resiliency Plan. The New Jersey Coastal Resiliency Plan is being prepared and has yet to be released or subject to public input or adoption. The State should ensure that policy officials and stakeholders have had the opportunity to review and evaluate the New Jersey Coastal Resiliency Plan before proposing rules that seek to solve many issues the report will purportedly identify.

Many coastal property owners have elevated or rebuilt their homes to comply with current regulations. The municipalities have assisted them by applying for FEMA grants. However, the amount that FEMA will provide per home is limited. We are concerned that our residents and businesses will be priced out of the area due to the increased cost to build and improve their properties. The additional height will not only result in added costs but in many cases prohibited development.

Also proposed is a new regulatory area known as the “Inundation Risk Zone” to account for land that may be inundated by sea level rise in 80 years. Property owners will have to demonstrate that that preventing construction would be an exceptional and undue hardship. Hence, it will be exceedingly difficult to build in the Inundation Risk Zone. Given the large amount of land and number of properties that will be impacted by these rule proposals, the Department should follow the same practice as FEMA and provide detailed mapping so that communities and residents can clearly understand how these regulations impact specific properties. No such information has been disseminated to date.

With your help, and the strong financial support of the Army Corps of Engineers and FEMA the coastal communities have been proactively working to make significant resiliency improvements to benefit its residents and businesses. These improvements are designed to reduce the impacts of sea level rise; however, The Department has not yet taken this into account.

An issue that is especially important to the Chamber is that there has been no major discussion concerning the magnitude of the economic impact of the proposed regulations or how to assist residents who will be negatively impacted. NJDEP’s proposed regulatory re-alignment is expected to result in extensive and immediate economic impacts. NJDEP must engage in a meaningful, holistic economic impact analysis, and not simply rely on a one-sided analysis of potential economic impacts from future, projected climate change related threats.

As you are aware, Atlantic City is the economic hub of South Jersey, providing jobs for not just City residents but for those who live throughout the region. We are working hard to diversify and grow the City’s and the County’s economy and we can ill afford any barriers.

We are told that NJDEP intends to introduce these land use rules in the second quarter of 2021, so time is short and clearly of the essence. We accordingly request that the State take the following steps before the rulemaking process begins:

- Subject the sea level rise projections that NJDEP is using as a foundation for these regulations to a scholarly peer review;
- NJDEP regulations be amended based on a 20- or 30-year timeframe and adjusted over time to monitor the impacts of sea level rise and resiliency measures rather than based on an 80-year projection;
- NJDEP ensure that policy officials and stakeholders have an opportunity to review and evaluate the New Jersey Coastal Resiliency Plan before proposing rules that seek to solve many issues the report will purportedly identify;



- The NJDEP seek the counsel from an independent economist to analyze the potential economic impacts of any new coastal regulations; and
- The NJDEP follow the same practice as FEMA and provide detailed maps so that communities and residents can clearly understand how these regulations effect specific properties.

Thank you for your consideration and continued support If you have any questions, please contact me at mchait@acchamber.com or at (609) 513-6688.

Respectfully,

A handwritten signature in black ink, appearing to read 'Michael Chait', with a horizontal line extending from the end.

Michael Chait
President
Greater Atlantic City Chamber of Commerce

cc: Senate President Steve Sweeney
Assembly Speaker Craig J. Coughlin
Senator Chris Brown
Assemblyman Vince Mazzeo
Assemblyman John Amato
Dennis Levinson, County Executive
Atlantic County Board of Commissioners
Atlantic County Municipalities
New Jersey Business & Industry Association
New Jersey Chamber of Commerce