

Highlands Council's power upheld

Court again upholds Highlands Council's power

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A state appeals court Monday upheld the Highlands Council's power to establish development plans that protect the region's water supply.

Advocates of New Jersey's Highlands Law said the rulings — centered on challenges against the Highlands Regional Master Plan and transfer-of-development-rights program — affirm the act's constitutionality and silence critics who say it is a land grab.

“It's telling those people that claim the Highlands Act is unconstitutional that in the courts you can claim what you might, but you don't have legal standing,” said Elliott Ruga, senior policy analyst for the New Jersey Highlands Coalition. “It's the seventh legal challenge to the Highlands Act; each challenge the act has been upheld.”

In one of four Highlands cases the Appellate Division weighed, the housing advocacy group Fair Share Housing Center had contended the Highlands Regional Master Plan, which restricts development in the 860,000-acre region, violates the state's affordable housing law. However, the appellate decision affirmed that the goals of the Highlands Council, composed of 15 appointees who make development decisions, to consider the state's water supply, regional planning and resource capacities in its planning.

In another case, brought forward by developers J&S Group and Wanaque, the Appellate Division ruled the transfer-of-development-rights program created by the Highlands Council, which gives landowners the opportunity to recoup lost land equity, does not have to conform with the State Transfer of Development Rights Act.

“This case is critical because it shows the Highlands are a special region and can be planned for differently than the rest of the state when it comes to issues like transfer-of-development rights,” said Jeff Tittel, director of New Jersey's Sierra Club.

John Walsh, an attorney for the Fair Share Housing Center, said on Monday afternoon that he plans to file a motion for reconsideration.

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