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By Katie Eder

The court battle over the fate of the Council on Affordable Housing continued today, with the Fair Share Housing Center arguing a move by the Gov. Chris Christie administration to bring COAH's duties under gubernatorial oversight is unlawful.

Christie in June announced COAH would be abolished, and its functions transferred to the Department of Community Affairs — effectively giving the governor authority over affordable housing responsibilities.

In its appeal in Superior Court today, Adam Gordon, an attorney with Fair Share Housing Center, said that transfer was unlawful.

"Under COAH, there was a balance between developers, public interest groups and municipalities" to make decisions about affordable housing — "which is what the original legislation on government agencies intended," Gordon said. "But under the (reorganization) plan, Christie ignored that intent of balance and put all the power to municipalities." That's an infringement upon legislative power, he added.

Fair Share Housing Center also questioned the validity of procedures that were informally adopted after COAH was abolished, but the court decided not to hear the argument on that rule-making, since it will address the issue under the Administrative Procedure Act in a few months, according to Jeffrey Kantowitz, attorney with the Law Offices of Abe Rappaport, who is not involved in this case, but handles affordable housing cases.

"The court stopped those procedures in the fall, but they're still out there to be challenged," Kantowitz said. "If the reorganization plan is validated by the court, then the procedures could be, too, but not necessarily. But based on today's arguments and questions from the court, I have a feeling that Fair Share is highly likely to be successful in this appeal."