

NEW JERSEY COUNCIL ON
AFFORDABLE HOUSING
DOCKET NO. COAH

In Re: PETITION FOR)
SUBSTANTIVE CERTIFICATION)
OF RAMSEY BOROUGH,)
BERGEN COUNTY)

Civil Action

OPINION

This matter comes before the Council on Affordable Housing (Council) upon the application of Ramsey Borough. Ramsey asks the council to permit it to adjust its fair share obligation from 350 to 303 due to lack of vacant developable land. Ramsey claims that under Council regulations, its obligation properly can be reduced. Ramsey presented documentation as to how it calculated that it had insufficient vacant land. Ramsey alternatively asks the Council to waive the 25 percent limit on the use of age restricted units towards satisfaction of its fair share obligation and allow it to provide for a portion of its obligation through the construction of 100 senior citizens units. Ramsey argues that the success in attracting such a development is difficult and therefore, in recognition of this, the Council should grant the waiver. Ramsey further argues that the construction of the project represents a major effort on the part of the Borough which should be recognized.

Ramsey's motion was scheduled for oral argument before the Council on April 4, 1988. The Public Advocate filed a response to the motion dated April 4, 1988, however, he did not appear at the oral argument. The Advocate agreed that Ramsey should not be

permitted to unilaterally change its plan after mediation has been conducted. Additionally, on April 4, 1988 representatives of the objector Ramsey Concerned Citizens (RCC) appeared at the oral argument in opposition to the motion. The Council advised those representatives that they would be given an opportunity to submit a written response much of which included items not directly the subject of the pending motion. For example, RCC set forth many instances where it felt public input should be required before Ramsey acts and further RCC presented an alternate plan as to how it would have Ramsey provide 183 units. RCC, however, did specifically object to the vacant land adjustment claiming that Ramsey had failed to include Borough-owned land which would be used for the Senior Citizens project. RCC also opposes a waiver of 25 percent limit on age restricted units claiming it would set a dangerous precedent.

Ramsey petitioned the Council for substantive certification of its housing element and fair share plan on May 24, 1987. Notice of the petition was published and four objectors filed objections to the plan. Consequently mediation was conducted and it concluded on December 27, 1987. Mediation resulted in the resolution of objections which were subject to mediation. Additionally, mediation caused Ramsey to refine its plan so as to comport with council regulations. Ultimately, Ramsey emerged from mediation with a plan as to how it would satisfy its entire fair share obligation of 350. In fact, the mediator recommended certification of Ramsey's plan.

Ramsey now comes before the Council, after mediation, after agreements with the objectors have been made and after it has set forth a plan within the confines of the Council's regulations as to how it will satisfy its entire fair share obligation and asks the Council to reduce its obligation. The Council finds that such a request is inappropriate. A workable plan in accordance with Council regulations had been formulated. Ramsey's plan and mediation both revealed that Ramsey is capable of satisfying its entire fair share obligation. Under these circumstances, the Council cannot permit Ramsey to come in at the end of the process and reduce its obligation.

Moreover, even if the Council felt it was appropriate to allow Ramsey to claim a vacant land adjustment at this late date, Ramsey has not demonstrated that it is entitled to the vacant land adjustment it claims. Ramsey calculates that it only has sufficient vacant land to accommodate 293 units. Thus, Ramsey determined that its adjusted fair share obligation should be 303 which represents 293 new units plus 10 units of the rehabilitation component. However, in arriving at this number, Ramsey determined that there are 122.2 acres of vacant developable land which it assumed would be developed at 12 units per acre. Ramsey chose the figure of 12 units per acre solely for the purposes of this motion. However, in reality Ramsey has developed much of its low and moderate income housing at 15 units per acre.

Ramsey put in place an inclusionary zone, R-5A, on May 5, 1984. The R-5A zone provides for a density of 15 units per acre

and a 20 percent set-aside for low and moderate income housing. Under this zoning, certain projects have been constructed, are in the process of construction, or are vacant sites zoned R-5A. Following is a summary of the status of these actions:

<u>Construction completed</u>	<u>Low/Mod units</u>
1). Housing Authority of Bergen County (36 sales and 48 rental).....	48
2). Adamo Homes (sales).....	44
<u>Construction in progress</u>	<u>Low/Mod units</u>
3). Town and Country market units and agreement to provide funds to transfer 107 units via RCA to Jersey City.....	107
<u>Site Zoned</u>	<u>Low/Mod units</u>
4). The 4.7 acre sit (586 Franklin Turnpike).....	14

Assuming a rental bonus of 4 units for the twelve rental units already constructed, Ramsey already has provided for 217 units at 15 units per acre.

Moreover, the Council is not convinced that 122.2 acres utilized by Ramsey in its calculations is the correct figure. A review of the documentation submitted by Ramsey in support of its vacant land adjustment indicates that Ramsey may not have included all vacant developable land in excess of two acres in its calculations. For example, there is a large parcel of 41.62 acres with access from Darlington Avenue which appears on the existing land use map. There is a small cemetery, also fronting on Darlington Avenue, adjacent to the open land access to the vacant land. This

large wooded parcel is characterized by wetlands and areas subject to flooding on the westerly portion. The easterly portion, however, is higher and is free from such environmental constraints. It is estimated from the maps submitted that 18 to 22 acres could be zoned for additional housing pursuant to Council rules. However, it was not included as vacant.

Thus, there is a question as to whether 122.2 acres represents the correct figure for vacant developable land in Ramsey. Accordingly, the Council finds that Ramsey has not demonstrated that a vacant land adjustment is appropriate.

Ramsey alternatively asks the Council to grant it a waiver of N.J.A.C. 5:92-14.3 and allow it to count all 100 units of the senior citizens project to be constructed towards satisfaction of its fair share obligation. Ramsey, however, presents no compelling arguments which would justify such a waiver. Ramsey simply argues that since the project is HUD funded is difficult to obtain, the exemption should be allowed. Such a reason is not sufficient to allow a waiver of a regulation. The rule was promulgated in recognition of the need for affordable housing for families. See 18 N.J.R. 244, December 15, 1986. Ramsey presents no reasons to deviate from the regulations. In fact, it should be noted that the Council has routinely denied requests for waivers from age-restricted limits. See In re Petition for Substantive Certification of Freehold Township, Docket No. COAH 88-101.

Accordingly, for the reasons set forth above, the Council denies Ramsey's request for a vacant land adjustment and waiver of N.J.A.C. 5:92-14.3.


James L. Logue, III
Chairman

Dated: June ⁶/₂, 1988