

RESOLUTION

WHEREAS, the Council on Affordable Housing (COAH) granted the Township of East Hanover's petition for substantive certification by Resolution adopted on September 6, 1988, and

WHEREAS, East Hanover was required to adopt the ordinances implementing its housing element and fair share plan within 45 days of the grant of substantive certification, pursuant to N.J.S.A. 52:27D-314, N.J.A.C. 5:91-12.1(d) and the terms of the Resolution, and

WHEREAS, pursuant to N.J.S.A. 40:55D-63, Sandoz Pharmaceuticals, Inc. filed a protest to the adoption of Ordinance 23-1988 pertaining to the site known as Pet Needs/Hart of Mountain site; and

WHEREAS, valid adoption of the aforementioned Ordinance was required by the grant of substantive certification, and

WHEREAS, the Hon. Stephen J. Skillman, J.A.D., has determined that Sandoz Pharmaceuticals, Inc. properly filed its protest pursuant to N.J.S.A. 40:55D-63; and

WHEREAS, the Hon. Stephen J. Skillman, J.A.D., has determined that less than two thirds of the East Hanover Township governing body voted in favor of the aforementioned Ordinance; and

WHEREAS, the Hon. Stephen J. Skillman, J.A.D. directed Sandoz Pharmaceuticals, Inc. to submit the appropriate affidavits at which time the Court would enter an Order declaring the test to be valid, provided that no other party disputed the factual basis for Sandoz Pharmaceuticals, Inc.'s claim; and

WHEREAS, while the Court has not yet entered the Order, it appears that Sandoz Pharmaceuticals, Inc.'s protest has not been challenged on a factual basis by any party; and

WHEREAS, the Hon. Stephen J. Skillman, J.A.D. requested that COAH act expeditiously to determine the effect of a valid protest upon its grant of substantive certification in East Hanover; and

WHEREAS, in accordance with the court's request and given the circumstances of this matter, while the court has not yet entered the Order declaring the protest to be valid, COAH finds it is appropriate to render a determination on the effect of Sandoz Pharmaceuticals, Inc.'s protest to Ordinance 23-1988 with the assumption that the protest is valid; and

WHEREAS, pursuant to N.J.S.A. 40-55D-63, an Ordinance to which a valid protest has been filed is ineffective; and

WHEREAS, in light of the presumed valid protest, Ordinance 23-1988, which was necessary to implement East Hanover's fair share plan is of no force and effect and therefore was not adopted within the 45 days as required; and

WHEREAS, East Hanover's failure to validly adopt all ordinances necessary to implement its fair share plan renders East Hanover's substantive certification null and void pursuant to N.J.S.A. 52:27D-314, N.J.A.C. 5:91-10.1(d) and the terms of the Resolution; and

WHEREAS, while substantive certification is null and void, COAH declares that fair share plan which it certified is an appropriate manner for East Hanover to satisfy its fair share obligation; and

WHEREAS, COAH orally made the above decision at its public meeting on November 7, 1988 and this Resolution is being adopted to memorialize and formalize that decision.

COAH had restraints upon the allocation of water in East Hanover in place since water was a scarce resource.

Water still remains a scarce resource in East Hanover. COAH feels it is necessary to continue the restraints since East Hanover no longer has substantive certification.

COAH finds it is appropriate to continue the restraints for 30 days from the date of its decision on November 7, 1988 in order to preserve the status quo while the court determines how it wishes to handle this matter.

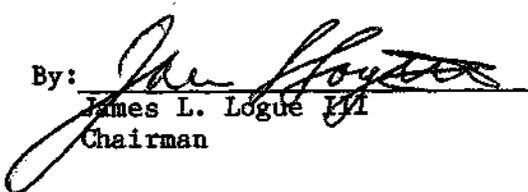
NOW, THEREFORE BE IT RESOLVED that East Hanover's substantive certification is void and of no force and effect due to East Hanover's failure to validly adopt all ordinances necessary to implement its fair share plan within 45 days as required by N.J.S.A. 52:27D-314, N.J.A.C. 5:91-10.1(d) and the terms of COAH's Resolution Granting Substantive Certification; and

BE IT FURTHER RESOLVED that the restraints upon the allocation of water in East Hanover are continued for 30 days from November 7, 1988; and

BE IT FURTHER RESOLVED that COAH, while it was compelled to declare East Hanover's substantive certification void, declares that East Hanover's fair share plan is an appropriate way for East Hanover to satisfy its fair share obligation; and

BE IT FURTHER RESOLVED that the Resolution and all the findings made herein shall be void if the Court does not enter an Order declaring Sandoz Pharmaceuticals, Inc.'s protest to be valid.

NEW JERSEY COUNCIL ON
AFFORDABLE HOUSING

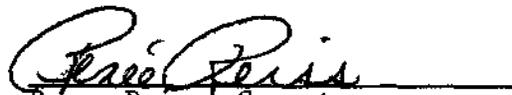
By: 

James L. Logue
Chairman

I hereby certify that this Resolution was duly adopted by the Council on Affordable Housing at its Public Meeting on November 28, 1988.

Dated: November 28th, 1988.

D1323h


Renee Reiss, Secretary