

STATE OF NEW JERSEY
COUNCIL ON AFFORDABLE HOUSING
DOCKET NO. COAH 88-120

In re:

PETITION FOR SUBSTANTIVE)
CERTIFICATION OF TEWKSBURY)
TOWNSHIP, HUNTERDON COUNTY)

Administrative Action

OPINION

At its public meeting on December 19, 1988, the Council on Affordable Housing (COAH) discussed and decided Tewksbury Township's Motion Petitioning COAH for Permission to Alter Dates under the Previously Approved Regional Contribution Agreement (RCA) with the City of Perth Amboy. This opinion simply formalizes COAH's oral decision rendered at that meeting.

Tewksbury Township filed a motion with COAH asking COAH to allow it to amend the payment schedule of its approved RCA with Perth Amboy so as to provide for payment as follows:

- A. The first payment in the same amount of \$693,333.31 on or before December 31, 1990; or
- B. Not later than 60 days after a final, unappealable adjudication is rendered in favor of the RCA and substantive certification, whichever of A or B comes first; and
- C. The second payment in the same amount within the same period of time, December 31, 1991 or one year after the first payment.

Perth Amboy supported the motion and no other party filed any papers in response to the motion. The New Jersey Housing Mortgage and Finance Agency (HMFA) submitted a report to COAH, which was distributed to all parties, that indicated that the proposed change in payment schedule would not effect the feasibility of the RCA.

COAH finds that it is appropriate to allow Tewksbury and Perth Amboy to amend the RCA so as to allow for the first payment on

December 31, 1990 rather than December 31, 1988 and the second payment on December 31, 1991 or one year after the first payment. The reasons for this are rather simple. First, there was no objection to the amendment and the receiving municipality, Perth Amboy, supported the motion. Moreover, HMFA has indicated that the change in payment schedule will not effect the feasibility of the project since it is a scattered site rehabilitation project and Perth Amboy has sufficient units and will continue to have sufficient units to accommodate the transferred units from Tewksbury. For these reasons, COAH finds that the amendment of the payment schedule as discussed above will be allowed.

COAH, however, will not allow Tewksbury to amend the RCA so as to include language which would not require any payment until all appeals of the RCA have been decided. COAH finds it is inappropriate to allow such a provision since the appellate process could take years which necessarily means that the low and moderate income units required would not be constructed within the requisite six year period. COAH has not allowed any municipality to include such language in an RCA and COAH will not at this time allow Tewksbury to include such language.

For the foregoing reasons, Tewksbury's motion to amend the RCA so as to alter the payment schedule to commence on December 31, 1990 is granted and Tewksbury's motion to amend the language of the RCA so as not to require payment until all appeals have been decided is denied.



James L. Logue, III, Chairman
Council on Affordable Housing

Date: January 9th, 1989.