

RESOLUTION
PISCATAWAY TOWNSHIP, MIDDLESEX COUNTY

WHEREAS, Piscataway Township, Middlesex County filed a petition for substantive certification of its housing element and fair share plan and also published notice of the same; and

WHEREAS, the Civic League of Greater New Brunswick and Friends of the Rutgers Ecological Preserve (FREP), filed objections to Piscataway Township's petition; and

WHEREAS, as a result of the filing of objections, mediation was conducted in an attempt to resolve all objections; and

WHEREAS, mediation concluded without resolution of objections; and

WHEREAS, the Civic League of Greater New Brunswick's objections include:

1) Piscataway Township provided no reasons to amend substantive certification as required by N.J.A.C. 5:91-14.3;

2) The proposed RCA violates a signed agreement between the League and the Township and cannot be amended without the Civic League's consent;

3) The proposed RCA transfers units from a dry area of the Canterbury site, leaving units that are problematic due to wetland problems;

4) There may be no demand for the proposed RCA, involving rental rehabilitation, because of extended controls on affordability;

5) The RCA, if approved, would result in Piscataway exceeding COAH's regulations on age restricted units

6) The RCA should not be approved because the receiving community does not have a certified housing element; and

WHEREAS, COAH has determined that none of these objections constitute contested issues requiring an evidentiary hearing for the following reasons:

1) N.J.A.C. 5:91-12.1(d) states that a municipality may "enter" into an RCA agreement at any time. The purpose of requiring reasons in 5:91-14.3 was to protect developers from having zoning amended without their consent since the municipality may enter into the RCA at any time. The only reason the municipality need give is the fact that they choose at this time to enter into a RCA

2) Review of the agreement reveals that the agreement between the Civic League and the Township was silent on the possibility of an RCA.

3) COAH will require as part of Piscataway's substantive certification that Piscataway utilize selected alternate sites if there is a shortfall on the Canterbury site. Therefore Piscataway's plan provide for the construction of the requisite number of affordable units

4) The assertion that there will be no demand for the RCA is conjecture. HMFA, under the statute, is given the responsibility to review the RCA project plan for economic feasibility and HMFA will determine if the RCA proposed is feasible

5) The Civic League is in error in its calculation of the number of units COAH's regulations permit Piscataway to age restrict. The Civic League claimed that when calculating the number of age restricted units allowed by N.J.A.C. 5:92-14.3, the municipality must include as part of that number any rental bonus it may receive pursuant to N.J.A.C. 5:92-14.4. Contrary to the Civic League's interpretation, the number of units allowed to be age restricted is the actual number of units to be provided and does not include any extra one third bonus.

6) The Fair Housing Act does not require receiving municipalities to have certified plans in order to be receiving municipality to an RCA

WHEREAS FREP's objections include:

1) An objection to any development of the Cedar Lane Tract II site;

2) An assertion that Rutgers commitment to develop the Cedar Lane Tract II site had expired; and

3) An assertion that development of the Cedar Lane Tract II site cannot occur without an access that may not legally be constructed; and

WHEREAS, after review and consideration of FREP's objections, COAH has determined that those objections, which relate solely to Piscataway's use of the Cedar Lane Tract II site as a component of its housing element and fair share plan, do not constitute objections to Piscataway's request to amend its plan since the RCA amendment request has no affect on the Cedar Lane Tract II and, therefore, COAH may proceed with the amendment request; and

WHEREAS, FREP's objections to the Cedar Lane Tract II site, while not constituting an objection to the amendment request, do raise the issue of whether facts or circumstances have changed so as to affect Piscataway's substantive certification; and

WHEREAS, COAH has determined that FREP's objections to the Cedar Lane Tract II must be resolved so that COAH may evaluate Piscataway's substantive certification; and

NOW THEREFORE BE IT RESOLVED that, as discussed and decided at its public meeting on October 10, 1989, the Council on Affordable Housing hereby transfers the issue of the availability and developability of the Cedar Lane Tract II site for inclusionary development to the Office of Administrative Law for an evidentiary hearing.

I hereby certify that this resolution was duly adopted by the Council on Affordable Housing at its public meeting on

30th day of *October* 1989



RENEE REISS, Secretary
Council on Affordable Housing