

RESOLUTION

WHEREAS, the Fair Housing Act, N.J.S.A. 52:27D-301, et. seq. has established a framework in which municipalities may exhaust the Council on Affordable Housing's (COAH) review and mediation process by filing a housing element prior to the filing of an exclusionary zoning suit; and

WHEREAS, COAH has already determined in Jack Neugarten v. Borough of West Paterson, et. al. that a municipality that chooses not to file a plan with COAH before it is sued is not entitled to the benefit of the Act; and therefore such municipalities should be required to utilize the site of the party who instituted the litigation, provided the site is suitable, whether the matter is before the court or COAH; and

WHEREAS, the Fair Housing Act does not require municipalities to petition for substantive certification; and

WHEREAS, COAH encourages municipalities to petition for substantive certification prior to the initiation of an exclusionary zoning suit.

NOW THEREFORE BE IT RESOLVED that, although COAH has the authority to deny substantive certification or to award site specific relief to an objector, COAH will be extremely reluctant to require a municipality that petitions for substantive certification prior to the initiation of an exclusionary zoning suit to utilize a site offered by an objector to its housing element and fair share plan.

I hereby certify that this resolution
was duly adopted at its public meeting

on *February 26, 1990.*


Renee Reiss, Secretary
Council on Affordable Housing