

RESOLUTION RESCINDING AFFIRMANCE OF
INITIAL DECISION IN IN RE PETITION OF
EDISON TOWNSHIP FOR SUBSTANTIVE
CERTIFICATION

WHEREAS, by Resolution adopted on May 16, 1990, The Council on Affordable Housing (COAH) affirmed Administrative Law Judge Robert S. Miller's Initial Decision in In Re Petition of Edison Township for Substantive Certification, OAL Docket No. CAH 7338-89, COAH Docket No. COAH 89-9a; and

WHEREAS, by letter dated May 16, 1990, Louie Nikolaidis, Esq., attorney for objector Civic League of Greater New Brunswick, informed COAH that he had not received a copy of the Initial Decision and only learned of its existence through notice of COAH's Resolution affirming the Initial Decision; and

WHEREAS, Mr. Nikolaidis further indicated that due to the failure to receive the Initial Decision, he was unable to file exceptions as permitted by the Administrative Procedure Act (APA), N.J.S.A. 52:14B-1 et seq.; and

WHEREAS, after receipt of Mr. Nikolaidis letter, COAH contacted the Office of Administrative Law (OAL) to determine whether a copy of the Initial Decision had been served upon Mr. Nikolaidis; and

WHEREAS, OAL's records indicate that a copy of the Initial Decision was forwarded to Mr. Nikolaidis at an incorrect address, specifically it was mailed certified Mail to 323 West 40th St., New York, N.Y., 10018 rather than 232 West 40th St., New York, N.Y., 10018, and was returned unclaimed to the OAL, as evidenced by

attached Exhibits A and B, which are incorporated by reference herein; and

WHEREAS, the Initial Decision was subsequently not forwarded to the correct address; and

WHEREAS, at the time COAH affirmed the Initial Decision, it was unaware that Mr. Nikolaidis had not received the Initial Decision; and

WHEREAS, as a result of the fact that the Initial Decision was mailed to an incorrect address and not mailed subsequently to a correct address, COAH finds that Mr. Nikolaidis did not receive a copy of the Initial Decision prior to COAH's action on the Initial Decision and was deprived of the opportunity to file exceptions; and

WHEREAS, COAH finds that due to the fact that Mr. Nikolaidis did not receive the Initial Decision and the opportunity to file exceptions, COAH should rescind its affirmance of the Initial Decision and allow the Civic League the opportunity permitted under the APA to file exceptions; and

WHEREAS, COAH has requested the OAL to forward a copy of the Initial Decision to Mr. Nikolaidis at his correct address and the OAL has indicated that it would do so; and

WHEREAS, all provisions under the APA and OAL regulations and regarding the filing of exceptions and replies shall apply to Mr. Nikolaidis' receipt of the Initial Decision; and

WHEREAS, COAH shall fully consider any exceptions and replies thereto filed when it evaluates the Initial Decision; and

NOW THEREFORE BE IT RESOLVED that COAH hereby rescinds its Resolution that adopts the Initial Decision in In Re Petition of Edison Township for Substantive Certification, OAL Docket No. CAH 7338-89, COAH Docket No. COAH 89-9a; and

BE IT FURTHER RESOLVED that COAH shall serve a copy of this Resolution upon all parties to this matter and upon the OAL.

I hereby certify that this Resolution was duly adopted by the Council on Affordable Housing at its public meeting on June 13, 1990.

Renee Reiss
Renee Reiss, Secretary
Council on Affordable Housing