

RESOLUTION REMANDING IN RE PETITION OF EDISON
TOWNSHIP, MIDDLESEX COUNTY, FOR SUBSTANTIVE
CERTIFICATION, OAL DOCKET NO. CAH 7338-89
AGENCY DOCKET NO. COAH 89-9a, FOR FURTHER HEAR-
ING

WHEREAS, the Council on Affordable Housing (COAH) by Resolution Rescinding Affirmance of Initial Decision in In re Petition of Edison Township for Substantive Certification, adopted June 13, 1990 and by Resolution Modifying Resolution Rescinding Affirmance Of Initial Decision In In re Petition of Edison Township for Substantive Certification, adopted July 11, 1990, both of which resolutions are hereby incorporated by reference herein, reopened In re Petition of Edison Township, Middlesex County, for Substantive Certification, OAL Docket No. CAH 7338-89, Agency Docket No. COAH 89-9a to permit the objector Civic League of Greater New Brunswick (Civic League) to file exceptions to the Initial Decision; and

WHEREAS, the Civic League filed a letter with COAH, dated May 16, 1990, which notified COAH that the Civic League never received the Initial Decision and which further commented briefly on the Initial Decision, which letter is hereby incorporated by reference herein; and

WHEREAS, COAH will consider the comments contained in the May 16, 1990 as exceptions to the Initial Decision; and

WHEREAS, in response to COAH's decision to reopen the matter, the Civic League filed exceptions in a timely fashion by letter dated June 13, 1990, which exceptions are hereby incorporated by reference herein; and

WHEREAS, by letter dated June 7, 1990, Sheldon Schiffman, Esq., on behalf of the Township of Edison, requested an extension of time to file Edison's reply to the Civic League's exceptions, which letter is hereby incorporated by reference herein; and

WHEREAS, at its public meeting on June 13, 1990, COAH granted Edison an extension until June 30, 1990 to file a reply to any exceptions; and

WHEREAS, by letter dated June 27, 1990 Edison filed a reply to the Civic League's exceptions, which reply is hereby incorporated by reference herein; and

WHEREAS, COAH has considered the Initial Decision, the Civic League's exceptions and Edison's reply; and

WHEREAS, the Civic League's objections raise serious concerns over the ability of the Rivertown site and the Edison Tyler Estates site to be developed due to environmental problems and constraints and those objections refer to a report from the U.S. Army Corp of Engineers for the Rivertown site; and

WHEREAS, Edison admits in its reply to the Civic League's exceptions that there is a factual dispute as to the wetlands problems on the Edison Tyler Estates site and Edison's reply does not address the issues raised by the U.S. Army Corp. of Engineers report for the Rivertown site in any detail; and

WHEREAS, the Civic League's exceptions as to both sites set forth information that became available through the press after the hearing in this matter; and

WHEREAS, based upon the record before it, COAH is unable to determine whether the environmental problems make the Rivertown and Edison Tyler Estates sites unrealistic for inclusion in Edison's housing element and fair share plan since the hearing did not explore in detail many of the problems cited by the Civic League in its exceptions; and

WHEREAS, in order for COAH to make a fully informed decision on the "approvability" and "developability" of the sites in question, COAH finds that it is necessary to remand this matter to the Office of Administrative Law (OAL) for further hearing on the environmental problems and issues raised in the Civic League's exceptions and as set forth in the newspaper articles; and

NOW THEREFORE BE IT RESOLVED that COAH hereby remands this matter to the OAL for further hearing on all environmental issues concerning the Edison Tyler Estates and Rivertown sites raised by the Civic League in its exceptions and as set forth in the newspaper articles included with the exceptions and for a determination on whether, given these environmental issues, those sites are "approvable" and "developable" as defined in COAH regulations and provide a realistic opportunity for the provision of the units proposed for those sites as required by the Fair Housing Act; and

BE IT FURTHER RESOLVED that the hearing on remand shall address, but not be limited to, the following specific issues:

1. Whether either the Edison Tyler Estates site or the Rivertown site requires further environmental per-

mits in order for the sites to be developed, over and above those permits discussed in the Initial Decision; and

2. Whether the pending litigation challenging the wetlands permits and/or exemptions for the Edison Tyler Estates site affect the "approvability" or "developability" or realistic opportunity for the Edison Tyler Estates site.

BE IT FURTHER RESOLVED that this remand is limited solely to those issues as stated above.

I hereby certify that this Resolution was duly adopted by the Council on Affordable Housing at its public meeting on 10/21/90.



Renee Reiss
Secretary