

IN RE PETITION FOR SUBSTANTIVE)
CERTIFICATION FILED BY SOUTH)
BRUNSWICK BOROUGH, MIDDLESEX)
COUNTY)

NEW JERSEY COUNCIL ON
AFFORDABLE HOUSING
DOCKET NO. COAH 90-301

OPINION

At its public meeting on November 7, 1990 the Council on Affordable Housing (COAH) orally denied South Brunswick's request for a waiver of N.J.A.C. 5:92-14.3, Age Restricted Units and Alternative Living Arrangements. This written opinion is intended to memorialize and formalize that oral decision.

South Brunswick's final need number was 575. Pursuant to N.J.A.C. 5:92-14.3, which limits the number of units a municipality may place age restrictions on to 25 percent of the fair share obligation, South Brunswick could place restrictions based on age (age restrict) on 144 units. South Brunswick's plan, as certified August 3, 1987, age restricted 142 units.

By petition to amend dated February 14, 1990, South Brunswick sought to amend its grant of substantive certification to eliminate 60 congregate care units and to replace those units within an inclusionary development, 60 of which would be affordable units. Specifically, South Brunswick wanted to rezone the site to allow for development at four units per acre with a 6.7% set aside. COAH granted the request to amend the grant of substantive certification by Resolution adopted June 13, 1990.

Next, by letter dated July 12, 1990, South Brunswick sought a waiver from N.J.A.C. 5:92-14.3 to allow the Township to restrict 40 of the 60 affordable units proposed for the site (subject to the June 1990 amendment) to senior citizens. Approval of this waiver would result in 182 age restricted units in South Brunswick's overall plan or 38 units in excess of the 25% limit allowed by N.J.A.C. 5:92-14.3. South Brunswick argued that the waiver should be granted because there is a great need for senior citizen public housing; it appeared likely it would receive federal funding for the project; and the units would be built sooner due to the likely federal funding.

N.J.A.C. 5:92-14.3 is intended "to prevent a municipality from satisfying a substantial portion of its fair share obligation through age restricted housing thereby diminishing the availability of affordable housing to other groups. This regulation also sought to ensure that there is a variety and choice of affordable housing and affordable housing is not limited to one group to the detriment of others." In Re Petition for Substantive Certification by Township of Freehold, COAH Docket No. COAH 88-101 (decided April 4, 1988). In light of this purpose, COAH will not grant a waiver of this regulation unless there are substantial reasons to persuade COAH that it is appropriate to allow a municipality to reserve a significant portion of its units for one isolated group. South Brunswick did not present such compelling reasons. Indeed, South Brunswick posted three reasons which had been presented and rejected in Freehold and In Re Petition for Substantive Certification of Ramsey Borough, Bergen County, COAH Docket No. COAH

88-107 (decided June 6, 1988). Further South Brunswick did not present the documentation that Freehold and Ramsey presented. In fact, Ramsey had a commitment for funding, while, here, South Brunswick has not received a firm commitment. Thus, South Brunswick's reasons for the waiver were less compelling than Ramsey's and Freehold's reasons.

Accordingly, for the reasons set forth in Ramsey and Freehold, COAH sees no basis to grant a waiver from N.J.A.C. 5:92-14.3 and denies South Brunswick's motion.

12/5/90
dated:



Charles Griffiths, Chairman
Council on Affordable Housing

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