

RESOLUTION APPROVING SETTLEMENT AGREEMENT IN
ALEXANDERS DEPARTMENT STORES OF NEW JERSEY, INC., et al. v.
BOROUGH OF PARAMUS, et als., DOCKET NO. L-42696-88

WHEREAS, by Resolution adopted September 6, 1988, the Council on Affordable Housing (COAH) granted the Borough of Paramus' petition for substantive certification; and

WHEREAS, Paramus' housing element and fair share plan (plan) that COAH granted substantive certification included a municipal construction project. The land for the project as well as funding for the project was to be given from Westland Properties, Inc. to Paramus pursuant to an agreement reached in the COAH mediation process; and

WHEREAS, the grant of substantive certification included a timetable for the construction and completion of the municipal construction project; and

WHEREAS, subsequent to COAH's grant of Paramus' petition for substantive certification, Alexanders Department Stores of New Jersey, Inc. (Alexanders) and Sakraf Wine and Liquor Store, Inc (Sakraf) filed a lawsuit against Paramus challenging Paramus' adoption of the ordinances implementing Paramus' plan which lawsuit is entitled Alexanders Department Stores of New Jersey, Inc., et al. v. Borough of Paramus, et als., Docket No. L-42696-88; and

WHEREAS, the parties desired to settle the lawsuit;
and

WHEREAS, Alexanders, Sakraf, Paramus, Paramus Planning Board, and Westland/Garden State Plaza, Westfield, Inc. and Westfield Management, Inc. reached a settlement which, among other things, was contingent on COAH's approval; and

WHEREAS, COAH reviewed the Settlement Agreement reached by the aforementioned parties to determine whether it affected Paramus' grant of substantive certification and whether any changes needed to be made to the substantive certification; and

WHEREAS, COAH's focus in reviewing the Settlement Agreement was the Agreement's effect on Paramus' grant of substantive certification; and

WHEREAS, after review of the Agreement as well as letter from Paramus requesting a new municipal construction timetable and the letter from Westland Properties explaining that the Agreement is financially feasible for Westland, COAH determined that the Settlement Agreement did not affect Paramus' substantive certification since the provision of Paramus' fair share obligation still would be done in the same manner that COAH had certified on September 6, 1988 and

Westland could proceed with its project and thus give the land and required payments to Paramus; and

WHEREAS, the only change to the substantive certification needed is to the municipal construction project timetable since the litigation delayed Westland's ability to transfer the remaining land to Paramus and thus prevented Paramus from commencing construction; and

WHEREAS, by letter dated December 20, 1991, Paramus requested COAH to revise the timetable for its municipal construction project; and

WHEREAS, at its January 8, 1992 public meeting, COAH approved the Settlement Agreement finding that it did not affect COAH's original grant of substantive certification provided that the municipal construction project timetable is revised and authorized its Deputy Attorney General to execute any legal documents necessary to effectuate COAH's approval;

NOW THEREFORE BE IT RESOLVED for the reasons set forth in this Resolution, as well as for the reasons discussed at the January 8, 1992 public meeting, COAH hereby approves the Settlement Agreement and authorizes its Deputy Attorney General to execute any legal documents necessary to effectuate COAH's approval; and

BE IT FURTHER RESOLVED that the municipal construction projection timetable is hereby amended as follows:

1. By July 1992, an entity shall be established which will be responsible for the administration and/or management of the proposed housing development.
2. By January 1993, an application shall be submitted for a municipal plan approval required for the proposed development.
3. By June 1992, applications will be submitted for all other municipal, county and State approvals for the proposed development.
4. By January 1994, all required approvals shall be obtained.
5. By March 1994, financing shall be obtained for the proposed development.
6. By April 1994, construction work for the initial portion of the proposed development shall begin.)


Kevin Quince
Acting Chairman

I certify that this Resolution was duly adopted by the Council on Affordable Housing at its February 5, 1992 public meeting.


Renee Reiss, Secretary