

IN RE)
INDIAN PATH ASSOCIATES)
MILLSTONE TOWNSHIP)

NEW JERSEY COUNCIL ON
AFFORDABLE HOUSING
DOCKET NO. COAH 92-408

OPINION

This motion was brought by Indian Path Associates (IPA). IPA is the owner and landlord of six affordable housing rental units located in the Township of Millstone. IPA seeks the Council's permission to rent its unit at 4 Moccasin Court to a non-income eligible household and also seeks authorization to automatically offer other affordable rental units to non-income eligible households after a 30-day marketing effort to income eligible households. IPA states that 4 Moccasin Court has been vacant since approximately August 31, 1992. The landlord has decreased the rent on this unit from \$825 a month without utilities to \$575 without utilities. However, the unit remains vacant. IPA would now like to rent this unit to a non-income eligible household. The unit is now being marketed by the Department of Community Affairs' Affordable Housing Management Service (AHMS).

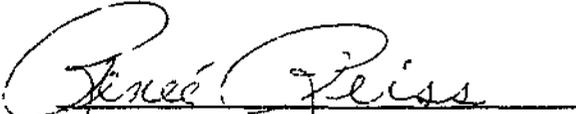
AHMS responded to IPA's motion by a memorandum from Jane Wheatley dated January 13, 1993. AHMS has been attempting to market the unit since October 23, 1992, when it contracted with Millstone to provide marketing services to the Township. It is Ms. Wheatley's opinion that it is difficult to rent the unit because it is in an isolated area that is difficult to get to for those who meet the eligibility criteria for rental. As of January 13, 1993, AHMS stated that it was working with three potential rentals and was continuing to elicit applicants from income qualified households. On February 3, 1993, at the monthly COAH meeting, Ms. Wheatley stated that AHMS was very close to renting the unit. The candidates for rental were obtained from lists of potential renters available to AHMS. The unit had not previously been advertised by IPA and AHMS had just begun outreach efforts through leaflets and a press release.

IPA's motion is pursuant to N.J.A.C. 5:92-12.5, which provides at N.J.A.C. 5:92-12.15(c) that owners of low and moderate income rental units cannot offer the rental units to non-income eligible households without the prior approval of COAH. Such an application must be based on the landlord's documented efforts to rent the unit to income eligible households. No limit is placed on the amount of time a landlord must attempt to rent a unit to an income-eligible household before making an application under N.J.A.C. 5:92-12.15(c). Rather, a determination must be made on a case-by-case basis that is sensitive to the documented facts presented by the applicant.

Regarding its application for COAH's permission to rent other units to non-income eligible households in the future if an income eligible household has not rented the unit within 30 days of its availability, IPA stated that it seeks this permission because in the very near future two more units at Indian Path will become available for rental and that its discouraging experience renting 4 Moccasin Court prompted the application.

The Council denies IPA's motion. COAH considers rental units affordable to low and moderate income households to be very precious commodities. N.J.A.C. 5:92-12.15(c) does not provide a time limit beyond which a rental unit's owner may automatically petition the Council for relief or automatically rent to a non-income eligible household because the Council believes that such units are needed and that the demand for them is in general quite great. As of February 3, 1993, it appears that 4 Moccasin Court will be rented to an income eligible household. However, even if 4 Moccasin Court has not yet been rented, the Council finds that sufficient marketing effort has not yet been exerted by IPA or AHMS to rent the unit to a non-income eligible household. IPA should advertise the unit's availability or take other measures to more assertively and actively market the unit. IPA's motion is denied at this time, but if IPA and AHMS can document an aggressive advertising and marketing effort for this unit over the next two or three months and the unit has not been rented, the Council will reconsider this motion.

The Council also denies IPA's request for COAH's permission to automatically rent affordable units to non-income eligible households after a 30-day marketing effort. Such permission would remove all incentives to aggressively market the unit to non-income eligible individuals. IPA has received substantial benefits from the provision of these six rental units in Millstone Township and the units should therefore be reserved for low and moderate income households. If, after a documented aggressive marketing effort, neither IPA nor AHMS can rent these units, the Council will in the future entertain IPA's request to rent the units to non-income eligible households.


Renee Reiss, Council Secretary

DATED: *March 11, 1993*

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