

IN RE: SUBSTANTIVE CERTIFICATION) COUNCIL ON AFFORDABLE HOUSING  
OF THE BOROUGH OF )  
METUCHEN )  
OPINION  
DOCKET NO. COAH 93-515

This is a motion by the Borough of Metuchen ["Borough" or "Metuchen"] for the approval by the Council on Affordable Housing ["Council" or "COAH"] of technical amendments to its Substantive Certification granted to Metuchen's housing element and fair share plan by Resolution No. 137 dated May 6, 1992. Specifically, Metuchen requests the Council's approval of amendments to a developer's agreement between the Borough and Homestead at Metuchen, Inc. ["Homestead"]. Homestead is the owner of a site in Metuchen, the Lawlor tract, that is included in Metuchen's housing element and fair share plan and which may provide up to 25 units of affordable housing.

In the original developer's agreement which Metuchen seeks to modify, the provision of 25 units of low income housing on the Lawlor tract is contingent on Homestead's receipt of a \$300,000 grant of Community Development Block Grant (CDBG) funds prior to construction and the receipt of an additional \$375,000 from NJHMFA during construction. If these funds were not received at the prescribed times, according to the agreement, Homestead was not obligated to build the affordable housing. Also, because the 25 units of low income housing are to be included in a project of 77 units, a waiver of the 30% limit on low income units in a project is required from the Federal National Mortgage Association (FNMA). The original grant of substantive certification acknowledged the need

for this waiver and did not require the Borough to amend its fair share plan if the waiver was not granted, due to the lack of vacant land in Metuchen.

This motion also seeks the Council's approval of modifications to the developer's agreement that will bring the Homestead project in compliance with the United States' Department of Housing and Urban Development ["HUD"] requirements for use of CDBG grants. Policies of the CDBG program preclude a direct grant to Homestead, a private developer. Rather, the CDBG regulations require that its funds be used to subsidize a privately developed low income housing project as direct grants to the prospective owners of the low income units. Therefore, the agreement between Metuchen and Homestead has been restructured so that the CDBG funds will be given to a non-profit agency created by Metuchen, the Metuchen Non-profit Housing Corporation, which will at the time of purchase provide each low-income purchaser with a \$12,000 per unit subsidy. Each of the units is priced at \$50,000 and with the \$12,000 subsidy will cost \$38,000.

In the amended agreements Homestead agrees to provide 8 units of low and 7 units of moderate income housing, for a total of 15 units (representing a 20% set-aside), even if no subsidies are received from HUD or NJHMFA for the project. For each \$25,000 of subsidy received, Homestead further agrees to build an affordable unit, up to the maximum number of 25 units originally included in Metuchen's substantive certification. Because the original grant of substantive certification acknowledged that it was possible that no units would be built on the Lawlor site, this amended

agreement provides a more certain commitment for the creation of low income housing in Metuchen. Now, even without the CDBG or NJHMFA subsidies, Homestead will build 15 units of affordable housing: with subsidies Homestead will build up to the 25 units.

The Council is also being asked by Metuchen to approve amendments to the construction timetables of the original agreement. The original timetable was dependent on FNMA approvals and receipt CDBG money. The revised timetable is not contingent on such approvals or any subsidy.

Finally, Metuchen seeks the Council's formal endorsement for the pricing of the low income units to be built by Homestead. Specifically, the Borough asks that the Council acknowledge that a \$50,000 unit in the Homestead project which receives a \$12,000 CDBG subsidy is in fact a low income unit, based upon the sales price of \$38,000 paid by the purchaser for the unit.

All these requests by the Borough of Metuchen were set out in a notice of motion dated June 22, 1993 and substantiated by a certification of Peter A. Buchsbaum, Esq. dated June 22, 1993. The motion and attached certification were served on all interested parties and objectors to the Metuchen fair share plan. No objections to this motion were received.

The Council on Affordable Housing hereby approves the amendments to Metuchen's substantive certification as requested in the Borough's motion dated June 22, 1993. The amendments are primarily technical in nature in that they restructure the agreement between the Borough and Homestead to comply with federal requirements for the receipt of the CDBG funds.

Moreover, the amendments make more certain that at least 15 low and moderate income housing units will be built by Homestead on the Lawlor tract. No objections have been filed by any party to this motion. The Council therefore grants the motion by the Borough of Metuchen to amend the Council's grant of substantive certification No. 137 dated May 6, 1992 to reflect the alterations in the developer's agreement between Metuchen and Homestead.

Date: November 10 1993

Christiana Foglio  
Christiana Foglio Dianne Brake  
Chairman Vice Chairperson  
Council on Affordable