

In the Matter of	)	New Jersey Council on
Lake Lenore Estates, L.L.C.	)	Affordable Housing
Petitioner	)	
	)	
v.	)	OAL Docket No. CAH 7290-01
	)	COAH DKT. Nos 01-1208; 01-1302
The Township of Parsippany-Troy Hills	)	and 01-1302(a)
	)	
	)	<u>FINAL DECISION</u>

On September 5, 2003, Administrative Law Judge (ALJ) Richard McGill issued an Initial Decision in this dispute between Lake Lenore Estates, LLC, (“Lake Lenore”) and the Township of Parsippany-Troy Hills Township (“the Township” or “Parsippany”) over the terms of a June 28, 1996 COAH mediation agreement between the Township and Lake Lenore. Specifically, the dispute involves the interpretation of a provision in the mediation agreement involving sewer connection fees. The Initial Decision determined that there is no reason to consider financial feasibility as an aspect of public policy considerations and that the sewer connection fees have not presented a substantial impediment to the projects in question since the development(s) are near completion. The Initial Decision concluded, “COAH should decline to exercise jurisdiction over this matter with the understanding that Lake Lenore may return to Superior Court to pursue the relief sought in this proceeding.”

Exceptions filed by Lake Lenore generally reiterate arguments presented to ALJ McGill that are discussed in the Initial Decision. The Initial Decision did not commit error, as alleged by Lake Lenore, in considering the public policy issues concerning the provision of affordable housing in the Township and the impact of increased sewer connection fees. Such consideration was contemplated by the Council’s opinion of 2001 (COAH Docket Nos 01-1208, 01-1302 and 01-1302(a)) (see attached) when it transferred the matter to the Office of Administrative Law (“OAL”) for a hearing with regard to all material contested issues of fact concerning the mediation agreement, each parties’ understanding of its terms, and the effect of the agreement on COAH’s grant of substantive certification to the Township. A determination as to whether the increased sewer connection fees impacted on the public policy issues was relevant. Therefore, it was appropriate for ALJ McGill to decide that the developer had a realistic opportunity to build

the housing in question and that there is not an issue or need for action in regard to COAH's primary delegated responsibilities.

Notwithstanding Lake Lenore's exceptions, and without passing judgment of the appropriateness of the increased sewer connection fees, the exceptions to the Initial Decision do not provide any convincing rationale by which the Council may reject or modify the Initial Decision. Therefore, the Initial Decision is adopted by the Council as its Final Decision in this matter.

Having determined that the Initial Decision dated September 5, 2003 is its Final Decision, the Council declines to exercise jurisdiction over this matter and Lake Lenore may pursue any relief it is seeking in regard to the sewer connection fee issue in the Superior Court of New Jersey.

For all the reasons set out above, the New Jersey Council on Affordable Housing accepts ALJ McGill's Initial Decision, dated September 5, 2003, as its Final Decision.



Renée Reiss, Secretary,  
New Jersey Council on Affordable Housing

Date: *October 1, 2003*