

**RECOMMENDATION TO THE COURT #04-1601**

WHEREAS, on February 19, 2001, the Council on Affordable Housing (COAH) received an "Order Denying Motion for Summary Judgment and Establishing Procedure for Referral to the Council on Affordable Housing," from the Honorable Reginald Stanton, A.J.S.C; and

WHEREAS, specifically, the matter was transferred to COAH to determine the following issue(s):

"Has Rockaway Township established that a significant change in facts or law warrants revision of the Final Judgment of Compliance as to Rockaway Township entered in Morris County Fair Housing et al. v. Boonton Twp., et al. Dkt: No. L-6001-78 (Law Div., Morris Co) on November 20, 1985, and that the modification proposed by Rockaway Township, namely the zoning amendments contained in Ordinance No. 99-19 is suitably tailored to the changed circumstance?"

WHEREAS, on March 21, 2001, the COAH executive director issued a letter to Edward Buzak, Esq., attorney for Rockaway Township, and Stephen Eisdorfer, Esq., attorney for ILAC, notifying the parties of COAH's acceptance of the court referral; and

WHEREAS, the COAH executive director issued a second letter on March 21, 2001, establishing procedures both parties were to follow for the "initial submission setting out the facts and law necessary for COAH to decide the issue transferred by Judge Stanton" and directed the parties to provide a "statement of the party's position as to what the next procedural steps should be with regard to COAH's determining the transferred issue;" and

WHEREAS, Rockaway and ILAC submitted briefs and findings of fact in response to the March 21, 2001 letter; and

WHEREAS, a COAH task force discussed Judge Stanton's directive to the COAH board at a meeting held on September 3, 2003; and

WHEREAS, at the October 1, 2003 COAH Board meeting, COAH staff presented the task force determination of the following findings of fact and determinations of law:

1. On July 2, 1985, the New Jersey Fair Housing Act was adopted.
2. On November 20, 1985, Rockaway Township received a Judgment of Compliance.
3. In 1994, COAH adopted 1987-1999 cumulative "Municipal Low and Moderate Income Housing Need" numbers for each municipality in the State of New Jersey. Rockaway Township's affordable housing obligation was calculated to be 412 units.
4. Rockaway Township received substantive certification from COAH on November 7, 2001.
5. All of the inclusionary sites resulting from the 1985 Judgment are not needed to fulfill the township's 1987-1999 cumulative obligation of 412 units, made up of a 370-unit new construction obligation and a 42-unit rehabilitation obligation.
6. The township received a total of 142 credits towards its obligation for a 40-unit low and moderate income age-restricted development completed in 1990, located on Green Pond Road, 75 credits for a low and moderate income age-restricted development created in 1987, located on Mt. Pleasant Avenue, four credits for four bedrooms in a group home completed in 1984, located on Leonard Place, four credits for four bedrooms in a group home completed in 1996, located on Lakeside Drive and 19 credits for post 1990 rehabilitation activity.
7. The township's plan to address its remaining obligation of 270 units (a 23-unit rehabilitation obligation and a 247-unit new construction obligation) consists of a 23-unit rehabilitation program, zoning at block 11501, lots 46-47, for 100 low and moderate family rental units, 92 rental bonuses and a 55-unit regional contribution agreement (RCA) with the City of East Orange, Essex County.
8. On July 17, 2000, Rockaway Township granted final major subdivision approval and final major site plan approval for the inclusionary development proposed at block 11501, lots 46-47. The township has also transferred \$1,100,000 to the City of East Orange to satisfy its RCA requirement and the township is implementing its rehabilitation program.
9. The ILAC site is no longer necessary to address Rockaway Township's affordable housing obligation based upon the fulfillment of the township's obligation from the other sites in the plan.

WHEREAS, COAH staff presentation recommended that the COAH Board make the determination that Rockaway Township has established that a significant change in fact and law has occurred since the Final Judgment of Compliance and the amended zoning ordinance proposed by Rockaway is suitably tailored to the changes that occurred; and

WHEREAS, at said meeting counsel for both Rockaway and ILAC presented arguments to the COAH Board and requested time to fully brief the issues; and

WHEREAS, in response to the parties request, the COAH Board tabled the matter pending a full submission by the parties; and

WHEREAS, both parties submitted supplemental briefs; and

WHEREAS, no new information was revealed that responded to the narrow focus of the court's directive to COAH; and

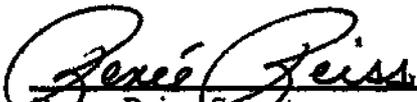
WHEREAS, COAH accepts the finding that the initial decision by the task force remain in effect.

NOW THEREFORE BE IT RESOLVED, that COAH has made the following findings of fact and determinations of law:

1. On July 2, 1985, the New Jersey Fair Housing Act was adopted.
2. On November 20, 1985, Rockaway Township received a Judgment of Compliance.
3. In 1994, COAH adopted 1987-1999 cumulative "Municipal Low and Moderate Income Housing Need" numbers for each municipality in the state of New Jersey. Rockaway Township's affordable housing obligation was calculated to be 412 units.
4. Rockaway Township received substantive certification from COAH on November 7, 2001.
5. All of the inclusionary sites resulting from the 1985 Judgment are not needed to fulfill the township's 1987-1999 cumulative obligation of 412 units, made up of a 370-unit new construction obligation and a 42-unit rehabilitation obligation.
6. The township received a total of 142 credits towards its obligation for a 40-unit low and moderate income age-restricted development completed in 1990, located on Green Pond Road, 75 credits for a low and moderate income age-restricted development created in 1987, located on Mt. Pleasant Avenue, four credits for four bedrooms in a group home completed in 1984, located on Leonard Place, four credits for four bedrooms in a group home completed in 1996, located on Lakeside Drive and 19 credits for post 1990 rehabilitation activity.
7. The township's plan to address its remaining obligation of 270 units (a 23-unit rehabilitation obligation and a 247-unit new construction obligation) consists of a 23-unit rehabilitation program, zoning at block 11501, lots 46-47, for 100 low and moderate family rental units, 92 rental bonuses and a 55-unit regional contribution agreement (RCA) with the City of East Orange, Essex County.
8. On July 17, 2000, Rockaway Township granted final major subdivision approval and final major site plan approval for the inclusionary development proposed at block 11501, lots 46-47. The township has also transferred \$1,100,000 to the City of East Orange to satisfy its RCA requirement and the township is implementing its rehabilitation program.
9. The ILAC site is no longer necessary to address Rockaway Township's affordable housing obligation based upon the fulfillment of the township's obligation from the other sites in the plan.

BE IT FURTHER RESOLVED that COAH shall issue a "COAH Report to the Court of Findings of Fact and Determinations" to the court recommending that Rockaway Township has established that a significant change in fact and law has occurred since the Final Judgment of Compliance, and the amended zoning ordinance proposed by Rockaway is suitably tailored to the changes that occurred.

I hereby certify that this resolution was duly adopted by the Council on Affordable Housing at its public meeting on March 3, 2004

  
\_\_\_\_\_  
Renee Reiss, Secretary  
Council on Affordable Housing