

**RESOLUTION DENYING WAIVER to N.J.A.C. 5:95-15.2 AND DENYING**

**EXTENDED SUBSTANTIVE CERTIFICATION** COAH 05-1703

Mount Holly Township, Burlington County

WHEREAS, Mount Holly Township, Burlington County, received substantive certification from the New Jersey Council on Affordable Housing ("COAH") on June 5, 1996, for a period of six years; and

WHEREAS, Mount Holly petitioned COAH for extended second round substantive certification pursuant to N.J.A.C. 5:91-14 and was granted extended substantive certification on April 3, 2002, by COAH; and

WHEREAS, pursuant to the direction of the Appellate Division of the Superior Court of New Jersey, COAH adopted a new emergency rule under N.J.A.C. 5:91-14.3, which became effective on October 13, 2004, and was replaced by N.J.A.C. 5:95-15.2 on December 20, 2004, for the granting of extended substantive certification; and

WHEREAS, pursuant to those rules, a municipality seeking extended second-round substantive certification was required to submit documentation demonstrating how the municipality has complied with the terms of its second-round certification by December 13, 2004; and

WHEREAS, on December 7, 2004, Mount Holly filed a notice of motion pursuant to N.J.A.C.5:91-14.3, petitioning for extended second-round substantive certification "without the necessity of

the submission of documentation required under the revised rule because Mount Holly has no second round prospective need or new construction obligation"; and

WHEREAS, Mount Holly, in requesting extended second-round substantive certification, requested "waiver entitlements" as to the submission required under COAH's rules for extended second-round substantive certification; and

WHEREAS, Mount Holly received a "jurisdictional and protective order" dated August 2, 2002, from the Honorable John A. Sweeney, A.J.S.C., which states that "Petitioner [Mount Holly] shall remain under Court's jurisdiction or that of the New Jersey Council on Affordable Housing ("COAH") at the Petitioner's election, to ensure and verify compliance with its current and third housing cycle affordable housing obligations under the Fair Housing Act, N.J.S.A. 52:27D-301, et seq. ("FHA")"; and

WHEREAS, pursuant to the court's order, Mount Holly may elect either to remain under COAH's jurisdiction or the court's jurisdiction; and

WHEREAS, in order to remain under COAH's jurisdiction prior to filing a third round petition, DAG George Cohen advised Mount Holly through correspondence dated December 10, 2004 that it was required to comply with the requirements for seeking extended substantive certification for the second round; and

WHEREAS, by failing to submit the required documentation for the grant of extended substantive certification in conformance with COAH's rules, Mount Holly is ineligible for the grant of extended substantive certification.

NOW THEREFORE BE IT RESOLVED that Mount Holly Township has failed to comply with the terms of COAH's regulations for the grant of extended substantive certification pursuant to the Appellate Division's decision dated August 31, 2004; and

BE IT FURTHER RESOLVED THAT both Mount Holly Township's motion for extended substantive certification, and its request for a waiver of the submission requirements for extended substantive certification, are hereby denied.

I hereby certify that this Resolution was duly adopted by the Council on Affordable Housing at its meeting on February 9, 2005.

  
Renee Reiss, Secretary  
Council on Affordable Housing