

**RESOLUTION IMPOSING TEMPORARY SCARCE RESOURCE RESTRAINTS UPON
TINTON FALLS BOROUGH AND THE TOWNSHIP OF NEPTUNE SEWERAGE
AUTHORITY**

WHEREAS, Tinton Falls Borough voluntarily submitted a fair share plan to the Superior Court of New Jersey for Declaratory Judgment in 1984 and received a Judgment of Compliance on January 18, 1991 to address a 590-unit obligation, 42-unit rehabilitation component and a 548-unit new construction component; and

WHEREAS, on March 26, 1999, Tinton Falls Borough petitioned the Council on Affordable Housing (COAH) for second round substantive certification to address a 12-year cumulative obligation of 634 units, consisting of 12 units of rehabilitation and 622 units of new construction; and

WHEREAS, COAH staff issued a Report Requesting Additional Information (RRAI) on August 25, 2004; and

WHEREAS, Tinton Falls Borough submitted its resolution of repetition and amended housing element and fair share plan to COAH on October 21, 2004; and

WHEREAS, Tinton Falls Borough received second round substantive certification on December 15, 2004; and

WHEREAS, in the Borough's certified plan, the AvalonBay development was to provide a total of 59 affordable ownership units and the Hunters Run development was to provide 44 affordable ownership units; and

WHEREAS, COAH received a motion on February 28, 2006, filed by counsel for AvalonBay (Avalon), followed by cross motions and replies filed by counsel for the Borough of Tinton Falls, counsel for JSM at Tinton Falls, Wayside Road LLC (Wayside) and Fred McDowell, Inc., counsel for Hov Town and counsel for Chelsea Commons concerning whether COAH should impose scarce resource restraints on sewer availability in Tinton Falls Borough; and

WHEREAS, oral argument was heard by COAH on June 14, 2006;

WHEREAS, the arguments presented centered around the lack of sewer capacity available to developments proposed in the area of Tinton Falls serviced by the Township of Neptune Sewerage Authority (TNSA), including the AvalonBay and Hunters Run affordable housing developments included in the Borough's certified plan, and disagreement over the amount of capacity left.

NOW THEREFORE BE IT RESOLVED that the information available to COAH from the parties at the time the motion was heard was not sufficient to make a definitive determination on the present and future availability of sewer capacity from TNSA to Tinton Falls; and

BE IT FURTHER RESOLVED that given the potential lack of available sewer in Tinton Falls, COAH hereby imposes a temporary scarce resource restraint until August 9, 2006 upon Tinton Falls and the TNSA; and

BE IT FURTHER RESOLVED that the Tinton Falls Planning Board is restrained from acting upon any development applications in the TNSA sewer service area; and

BE IT FURTHER RESOLVED that the TNSA is restrained from approving any new commitments of sewer capacity within the Borough of Tinton Falls; and

BE IT FURTHER RESOLVED that the parties to the motion and a representative from the TNSA are directed to meet on an expedited basis so that they may gather facts concerning capacity, actual flow and allocation to Tinton Falls.



Renee Reiss, Council Secretary

DATED: July 14, 2006
(June 14, 2006)