

RESOLUTION AUTHORIZING THE BOROUGH OF TINTON FALLS, MONMOUTH COUNTY, TO RELEASE FUNDS FROM ITS AFFORDABLE HOUSING TRUST FUND TO BENEFIT THE AFFORDABLE UNITS LOCATED WITHIN THE FOX CHASE AT TINTON FALLS II CONDOMINIUM ASSOCIATION 06-1808

WHEREAS The Borough of Tinton Falls ("Borough" or "Tinton Falls") received a Judgment of Compliance on January 18, 1991 from the Honorable Eugene Serpentelli, J.S.C., to address a 590-unit obligation, consisting of a 42-unit rehabilitation component and a 548-unit new construction component; and

WHEREAS Tinton Falls petitioned the Council on Affordable Housing (COAH) with its second round Housing Element and Fair Share Plan on March 26, 1999, addressing its 12-year cumulative affordable housing obligation of 634 units, including a rehabilitation obligation of 12 units and a new construction obligation of 622 units; and

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

WHEREAS Tinton Falls' second round certified plan included credits for 112 affordable housing units in an inclusionary development known as FoxChase at Tinton Falls II Condominium Association ("Fox Chase II"), an inclusionary development in Tinton Falls, in which approximately 38 percent of the housing units have been designated as low and moderate income subject to thirty year controls on affordability and which was included in the 1991 Judgment of Repeal; and

WHEREAS Tinton Falls submitted a motion dated May 3, 2006 to COAH requesting, among other relief, the ability to loan Fox Chase II money from its affordable housing trust fund to complete necessary repairs to the affordable units in need of repair; and

WHEREAS replies were received from the FoxChase II Condominium Association and from a number of the residents of FoxChase II, represented by separate counsel, who occupy the low and moderate income units; and

WHEREAS oral argument was heard at the September 13, 2006 COAH Board meeting; and

WHEREAS the Master Deed for FoxChase II limits the condominium fees on the low income units to 10 percent of the condominium fees paid by the owners of the market rate units, resulting in friction between the affordable and market rate unit owners, constant financial distress for the condo association, and unaddressed but necessary capital repairs and maintenance; and

WHEREAS all of the units contained within FoxChase II are in need of repair, and the Borough wishes to use funds from its Affordable Housing Trust Fund to assist the association in paying for the repair of the affordable units; and

WHEREAS the maintenance to be completed on the affordable units totals approximately \$420,000, itemized as follows:

<u>Item</u>	<u>Cost</u>
Wood Trim	\$116,015.63
PVC aluminum	\$155,640.63
Roof Replacement	\$129,370.72 - \$147,420.72
DCA Repairs	\$20,771.25; and

WHEREAS after considering the papers submitted and after hearing the arguments presented at the Board meeting, COAH requested additional information and suggested that the parties convene for mediation; and

WHEREAS the Borough of Tinton Falls, the FoxChase II Condominium Association and representatives of the residents of affordable units within FoxChase II participated in a mediation session on September 18, 2006; and

WHEREAS at said mediation session the parties agreed that although additional issues remain to be mediated, of immediate concern are three buildings included in Phase I of the roof replacement priority list; and

WHEREAS the three buildings in need of immediate roof repairs are identified as 9-20 Fennec Court, 21-28 Fennec Court, and 29-40 Fennec Court which contain a total of 28 affordable units and four market-rate units resulting in 87.5 percent of the units in these three buildings being affordable; and

WHEREAS the cost to re-roof all three buildings is \$35,272.62, of which, 87.5 percent is attributable to low and moderate-income units or \$30,863.54; and

WHEREAS there may be additional costs related to replacing damaged or rotted sheathing; and

WHEREAS the Borough of Tinton Falls has agreed to provide the FoxChase II Condominium Association with up to \$35,000 to pay for the repair of roofs of the affordable units located within three buildings indicated above.

NOW THEREFORE BE IT RESOLVED that the Borough of Tinton Falls is hereby authorized to expend no more than \$35,000 from its Affordable Housing Trust Fund to assist the FoxChase II Condominium Association with repairs of the roofs of the buildings identified above; and

BE IT FURTHER RESOLVED that the Borough of Tinton Falls and the Foxchase II Condominium Association shall, within 14 days, execute an agreement or memorandum of understanding outlining the terms and conditions under which funds shall be released and forward same to COAH; and

BE IT FURTHER RESOLVED that said agreement or memorandum of understanding shall include provisions for either a grant or a forgivable loan to the Foxchase II Condominium Association; and

BE IT FURTHER RESOLVED that said agreement or memorandum of understanding shall also include conditions to be met prior to fund disbursement, including but not limited to provisions for inspection precedents, scope of work limitations that are consistent with this resolution and provisions to cover additional costs related to replacing damaged or rotted sheathing provided no more than 87.5 percent of the additional cost may be funded from the Borough's Affordable Housing Trust Fund; and

BE IT FURTHER RESOLVED that in no event shall the total disbursement to the Foxchase II Condominium Association exceed \$35,000.

I hereby certify that this Resolution was duly adopted by the Council on Affordable Housing at its meeting on November 1, 2006.


Renée Reiss, Secretary
Council on Affordable Housing