

RESOLUTION GRANTING SPRINGFIELD TOWNSHIP A WAIVER OF N.J.A.C. 5:95-15.3 PURSUANT TO N.J.A.C. 5:95-141

WHEREAS, on January 7, 2004, Springfield Township received second round certification of a Housing Element and Fair Share Plan from GOAH, valid through January 7, 2010; and

WHEREAS, on May 15, 2006, COAH's rules were amended, N.J.A.C. 5:95-15.3, to state that in order to remain under the jurisdiction of the Council for the third round fair share obligation, a municipality shall either file a newly adopted Housing Element and Fair Share Plan addressing the third round obligation with the Council or petition for third round substantive certification by the earlier of the expiration date of its second round substantive certification or May 15, 2007; and

WHEREAS, on June 14, 2006, Springfield Township adopted a resolution committing to adhere to N.J.A.C. 5:95-15.3; and

WHEREAS, on January 25, 2007, the Appellate Division issued a decision on COAH's third round rules that directed COAH to make certain changes to its third round growth share approach; and

WHEREAS, as part of its ruling, the Court stayed the grant of substantive certification pending the process of amending COAH's regulations, stating that "[municipalities that have acted in good faith in devising Fair Share Plans to comply with the existing third round rules should not be subjected to an exclusionary zoning lawsuit."; and

WHEREAS, COAH issued correspondence on March 28, 2007 advising municipalities required to submit by May 15, 2007, as per N.J.A.C. 5:95-15.3, that they may submit a Housing Element and Fair Share Plan by the prescribed date, or in the alternative, that they may submit a request for a waiver pursuant to N.J.A.C. 5:95-14.1; and

WHEREAS, Springfield Township submitted a letter requesting a waiver of N.J.A.C. 5:95-15.3; and

WHEREAS, Springfield's waiver request dated April 13, 2007 states that requiring the Township to prepare a third round Housing Element and Fair Share Plan using COAH's current adopted rules, of which various regulations have been invalidated by the Appellate Court decision, is a poor use of municipal financial resources since the Housing Element and Fair Share Plan will have to be amended once COAH's regulations are amended and adopted, potentially later in 2007; and

WHEREAS, the Township further states that prior to the Appellate Division's decision, the Township had begun preparation of a third round Housing Element and Fair Share Plan for submission to COAH by the May 15, 2007 deadline; and

WHEREAS, Springfield Township submitted additional information in support of its waiver request in the form of a statement of the Township's second round progress and third round preliminary planning efforts including projections of its residential and non-residential growth for the third round period to determine its growth share obligation and also the design of an affordable housing program to satisfy the Township's growth share obligation; and

WHEREAS, the Township anticipates fulfilling its growth share obligation through two five bedroom group homes, a four bedroom group home, and an RCA with a receiving community; and

WHEREAS, Springfield indicates that work underway on the plan was deferred because the Appellate Court's January 25, 2007 decision stayed grants of substantive certification and builder's remedy lawsuits for six months, but the Township fully intends to work toward compliance with COAH's third round rules as ultimately adopted; and


WHEREAS, A CO AH Task Force met on May 1, 2007 to consider Springfield's waiver request and the Task Force recommended that the Township's request for a waiver of NJ.A.C. 5:95-15.3, pursuant to NJ.A.C. 5:95-14.1, be granted.

NOW, THEREFORE BE IT RESOLVED, Springfield Township has met the waiver requirement of NJ.A.C. 5:95-14.1(b) by demonstrating that strict application of NJ.A.C. 5:95-15.3 would create an unnecessary financial, environmental or other hardship for the Township; and

BE IT FURTHER RESOLVED, Springfield has shown a good faith effort in devising a Housing Element and Fair Share Plan to comply with the third round rules; and

BE IT FURTHER RESOLVED, the Township's request for a waiver of NJ.A.C. 5:95-15.3, pursuant to NJ.A.C. 5:95-14.1, is hereby granted with the condition that Springfield must, within 45 days of the date of this resolution, adopt a resolution committing to petition CO AH with a third round Housing Element and Fair Share Plan within six months of COAH's adoption of revised third round rules or by the date of the expiration of its second round certification, whichever is earlier.

I hereby certify that this resolution was duly adopted by the Council on Affordable Housing at its meeting on *10/11/07*


Renee Reiss, Secretary