

RESOLUTION GRANTING WOODCLIFF LAKE BOROUGH A WAIVER OF N.J.A.C. 5:95-15.3 PURSUANT TO N.T.A.C. 5:95-14.1

WHEREAS, on November 6, 2002, Woodcliff Lake Borough received second round certification of a Housing Element and Fair Share Plan from COAH, valid through November 6, 2008; 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 20, 2006, Woodcliff Lake Borough 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 "[m]unicipalities 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, Woodcliff Lake Borough submitted a letter requesting a waiver of N.J.A.C. 5:95-15.3; and

WHEREAS, Woodcliff Lake's waiver request dated April 13, 2007 states that the expenditure of funds to prepare a Housing Element and Fair Share Plan is premature as it would be subject to change upon COAH's adoption of amended regulations and presents an unnecessary financial hardship upon the Borough's fiscal resources, that the preparation of a Housing Element and Fair Share Plan is a comprehensive planning task that cannot be thoughtfully undertaken when changes to COAH's regulations are imminent, and that completing the public processes required for the creation of a petition would be a disservice to the Borough's constituency when dramatic rule changes are pending and the process will need to be repeated in the near future; and

WHEREAS, Woodcliff Lake has made some progress in developing a Third Round Plan, including the hiring of a Planning Consultant and the authorization of the Planning Consultant to submit portions of the petition that are currently complete, and unaffected by the anticipated changes in COAH's third round regulations, by May 15, 2007; and

WHEREAS, A CO AH Task Force met on May 1, 2007 to consider Woodcliff Lake's waiver request and the Task Force recommends that the Borough's request for a waiver of N.J.A.C. 5:95-15.3, pursuant to N.J.A.C. 5:95-14.1, be granted.

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

BE IT FURTHER RESOLVED, Woodcliff Lake has shown a good faith effort in continuing to work toward devising a Housing Element and Fair Share Plan; and

BE IT FURTHER RESOLVED, the Borough's request for a waiver of N.J.A.C. 5:95-15.3, pursuant to N.J.A.C. 5:95-14.1, is hereby granted with the condition that Woodcliff Lake 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 S \ H \ "2.QO".

Renjge Reiss, Secretary
Council on Affordable Housing