

**RESOLUTION GRANTING BETHLEHEM TOWNSHIP A WAIVER OF N.J.A.C. 5:95-15.3 PURSUANT TO N.J.A.C. 5:95-14.1**

**WHEREAS**, on June 6, 2001, Bethlehem Township received second round certification of a Housing Element and Fair Share Plan from CO AH, valid through June 6, 2007; 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 15, 2006, Bethlehem 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 CO AH 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**, CO AH issued correspondence on March 28, 2007 advising municipalities required to petition 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**, Bethlehem Township submitted a letter requesting a waiver of N.J.A.C. 5:95-15.3; and

**WHEREAS**, Bethlehem's waiver request dated April 13, 2007 states that to require the Township to prepare a third round Housing Element and Fair Share Plan using COAH's current adopted rules is a poor use of municipal financial resources given that the Housing Element and Fair Share Plan would have to be amended once COAH's regulations are amended and adopted; and

**WHEREAS**, Bethlehem Township submitted additional information to the waiver on April 19, 2007, including a statement of the Township's second round progress and third round preliminary planning efforts, stating that prior to the Appellate Division's decision, the Township began preparation of a third round Housing Element and Fair Share Plan for submission to CO AH by the May 15, 2007 deadline; and

**WHEREAS**, the Township also states that during the preliminary planning process, it had to take into account the draft Highlands Regional Master Plan that was released on December 5, 2006; and

**WHEREAS**, the Highlands Act, which was adopted on August 10, 2004, designated more than ninety-nine percent of the Township's land mass as Highlands Preservation Area, with twenty-five acres of the Township designated as a Highlands Planning Area, but subcategorizing this area as a conservation zone within the Highlands Planning Area; and

**WHEREAS**, the Township began preparing third round projections of its residential and non-residential growth based on the limited anticipated future growth; and

**WHEREAS**, Bethlehem anticipates that it will address its growth share obligation through a third round Regional Contribution Agreement, and has preliminarily investigated establishing a buy down program and a municipally-sponsored rental acquisition program to address the third round obligation, including the Township's third round rental obligation; and

**WHEREAS**, a CO AH Task Force met on May 1, 2007 to consider Bethlehem's waiver request and the Task Force recommends 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**, Bethlehem 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**, Bethlehem has shown a good faith effort in devising a Housing Element and Fair Share Plan to comply with the third round rules, as demonstrated through the submissions in support of this waiver request; and

**BE IT FINALLY 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 until the date of expiration of Bethlehem's second round certification, June 6, 2007.

I hereby certify that this resolution was duly adopted by the Council on Affordable Housing at its meeting on S\Q \QJ&OI.

iee Reiss, Secretary  
Council on Affordable Housing