

**RESOLUTION GRANTING IN PART FAIR SHARE HOUSING
CENTER'S (FSHC) MOTION TO SETTLE THE RECORD REGARDING
COAH'S APPROVAL OF THE REGIONAL CONTRIBUTION AGREEMENT
BETWEEN THE TOWNSHIP OF GALLOWAY AND THE CITY OF
BRIDGETON
COAH 07-1901**

WHEREAS, The Township of Galloway ("Galloway") received substantive certification from the New Jersey Council on Affordable Housing ("COAH") for its first round 1987-1993 affordable housing obligation of 399 units on March 13, 1989; and

WHEREAS, Galloway's rehabilitation component of 143 units was to be addressed through a Township sponsored program administered by the Atlantic County Improvement Authority, and its new construction component of 221 units was to be addressed with three inclusionary developments which included 61 affordable units at Wrangleboro, 61 affordable rental units in the Smithville PUD, a 91-unit age-restricted municipally sponsored rental development and 14 rental bonuses, resulting in a certified plan that was to provide a surplus of six units.; and

WHEREAS, Galloway adopted a Housing Element and Fair Share Plan on June 5, 2000 that addressed its 12-year cumulative obligation of 409 units, comprised of a rehabilitation component of 81 units and a new construction component of 328 units and received second round substantive certification from COAH on December 15, 2004, with a total of 420 credits and reductions, which included 81 rehabilitation credits, 63 prior cycle credits, 44 credits for existing alternative living arrangements, 57 completed for-sale units, 66 completed age-restricted rental units, 61 zoned units in the Smithville PUD and 48 rental bonuses; and

WHEREAS, on March 23, 2006, the Galloway Township Planning Board adopted an amendment proposing to transfer 61 units via a regional contribution

agreement (RCA) with the City of Bridgeton, Cumberland County ("Bridgeton"), rather than construct the units on site as provided for in the Township's certified plan, and on March 28, 2006, the Township's governing body adopted a resolution endorsing the plan and requested that COAH review and approve the amendment; and

WHEREAS, COAH received one objection to Galloway's proposed amendment, filed by FSHC, and held mediation on August 15, 2006; and

WHEREAS, COAH issued a mediation report dated August 24, 2006, which concluded that no contested issues of material fact existed to necessitate transfer to the Office of Administrative Law, and this was objected to by FSHC by letter dated September 11, 2006; and

WHEREAS, no new issues were raised and the Council adopted the mediation report at COAH's September 13, 2006 meeting; and

WHEREAS, on September 20, 2006, COAH issued a compliance report recommending approval of Galloway's proposed amendment, to which FSHC objected; and

WHEREAS, COAH approved the RCA at its October 11, 2006 meeting; and

WHEREAS, FSHC submitted a motion to settle the record in an appeal from COAH's October 11, 2006 approval of an Amended Second Round Plan for Galloway Township; the October 11, 2006 approval of a Mediation Report regarding that plan; and the October 11, 2006 approval of an RCA between Galloway and Bridgeton; and

WHEREAS, FSHC submits that COAH's Statement of Items Comprising the Record (SICR) is incomplete and prevents a fair judicial review of FSHC's challenge of the approval; and

WHEREAS, FSHC contends that COAH's approval of the RCA contravenes the Mount Laurel doctrine and the Fair Housing Act, N.J.S.A. 52:27D-301, et seq., particularly when read in tandem with COAH's Third Round Rules, and also maintains that the Cumberland County Planning Board has failed to conduct an adequate review of whether the RCA is consistent with sound, comprehensive regional planning, as required by N.J.S.A. 52:27D-312c; and

WHEREAS, FSHC argues that there were contested issues of material fact after mediation and that COAH should have referred the matter for a contested case hearing and further maintains that COAH improperly approved the Amended Second Round Plan without providing information required for public notice and comment; and

WHEREAS, FSHC is seeking for COAH to conduct an independent review of the Cumberland County Planning Board determination of sound comprehensive regional planning and the proximity to employment opportunities as required by N.J.S.A. 52:27D-312c, and further expects COAH to independently review whether the RCA provides a realistic opportunity for the provision of low and moderate income housing as required by N.J.S.A. 52:27D-312c, instead of referring to HMFA's feasibility analysis; and

WHEREAS, FSHC requests that COAH add the following documents to the record:

- a. Any and all documents, notes, emails, or other information that COAH relied upon in making its determination that the Galloway-Bridgeton RCA provides a realistic opportunity for the provision of low and moderate income housing within the housing region;
- b. Any and all documents, notes, emails, or other information that COAH relied upon in making its determination that the RCA will be within convenient access to employment opportunities;

- c. Any and all documents, notes, emails, or other that COAH relied upon in making its determination that the RCA is consistent with sound comprehensive regional planning;
- d. Any and all documents, notes, email, or other information that COAH relied upon in making its determination that the RCA eliminates any financial burden resulting from the added fair share;

and FSHC states that if the above documents do not exist it would like a statement from COAH to that point; and

WHEREAS, FSHC asserts the following documents are relevant to this appeal and were not included in the SICR:

- a. Materials documenting COAH's review and approval of Galloway's Amended Second Round Plan
 - i. Galloway submission of Amended Certified Housing Element and Fair Share Plan dated March 29, 2006.
 - (a) Letter from Tiffany A. CuvIELLO to Lucy Voorhoeve, dated March 29, 2006.
 - (b) Galloway Governing Body Resolution #103 dated March 28, 2006.
 - (c) Galloway Planning Board Resolution # PB10-06.
 - (d) Amendment to Certified Housing Element dated March 23, 2006.
 - (e) Appendix entitled "History of Smithville Planned Unit Development",
 - ii. COAH approval of Amended Second round Substantive Certification, October 11,2006.
 - (a) Resolution Amending Second Round Sub Cert, October 11, 2006.
 - (b) Letter from Lucy Voorhoeve to Mayor Thomas Bassford, dated October 11, 2006.
 - iii. FSHC objection to proposed amendment, Letter from Kevin D. Walsh to Lucy Voorhoeve, dated May 3. 2006.
- b. Additional materials in COAH file on 2004 petition for substantive certification.

- i. Letter from Lucy Voorhoeve to Mayor Mark Hanko, dated October 27, 2004.
 - ii. Letter from Lucy Voorhoeve to Mayor Mark Hanko, dated November 24, 2004.
 - iii. Letter from Lucy Voorhoeve to Mayor Mark Hanko, dated December 15, 2004.
 - iv. Report Requesting Additional Information, dated October 27, 2004.
 - v. Galloway Township Housing element and Fair Share Plan, dated May 2000.
- c. Municipal resolutions authorizing the RCA.
- i. City of Bridgeton Res. 235-04, dated April 25, 2005.
 - ii. Galloway Resolution 109 of 2005, April 26, 2005.
- d. Additional material in COAH records regarding COAH's review of RCA.
- i. RCA Required Documentation Checklist.
 - ii. Handwritten notes on phone call with Bob Brewer, Planning Director, Cumberland County,
 - iii. Project Plan for Regional Contribution Agreement between Galloway and Bridgeton, Triad Associates, August 2005; and

WHEREAS, COAH staff recommends the addition of the above documents to the Statement of Items Comprising the Record on Appeal in the Appellate Division; and

WHEREAS FSHC further asserts that COAH has not provided the following documents to FSHC despite their inclusion in the SICR:

#26 - Letter from Michael J. Blee to Lucy Voorhoeve dated June 26, 2006

#29 - Letter from Mayor Pirolli to Kathleen McGlinchy, dated April 21, 2006.

#32 - Letter from Lucy Voorhoeve to Mayor Hanko, dated June 22, 2005; and

WHEREAS, on May 10, 2007, COAH provided the three requested documents listed above to FSHC; and

WHEREAS, FSHC further argues that COAH should indicate whether it intends to provide a complete SICR for the decision of the Cumberland County Planning Board challenged in this appeal; and

WHEREAS, FSHC argues that R. 2:5(a) requires all agencies to provide challengers of agency action and the Appellate Division with all documents on file that support its agency action, and states that the rule requires that the record "consist of all papers on file in the court or courts or agencies, the stenographic transcript or statement of the proceeding therein, and all papers filed with or entries made on the records of the appellate court."

NOW THEREFORE, BE IT RESOLVED COAH grants, in part, FSHC's motion to settle the record to the extent that the SICR will be amended to add the items agreed to by COAH as part of the record on appeal, as noted above; and

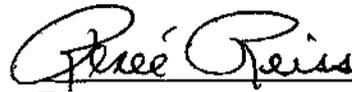
BE IT FURTHER RESOLVED THAT COAH finds that the SICR shall list all documents reviewed by COAH in making its decision in approving the RCA and plan amendment, and shall not include items maintained by other entities that COAH did not review in making its decision; and

BE IT FURTHER RESOLVED THAT COAH has complied with its obligation under the Fair Housing Act to review the documents and confirm that the RCA between Galloway and Bridgeton complies with COAH regulations, and no additional documentation exists nor is additional documentation necessary; and

BE IT FURTHER RESOLVED THAT a Motion to Settle the Record before the Council is not the appropriate forum to address arguments challenging the approval of an RCA, as they will be addressed in COAH's response in the Appellate Division appeal; and

BE IT FURTHER RESOLVED THAT FSHC's objections and assertions regarding COAH's approval of the Galloway/Bridgeton RCA, the amended plan, and the mediation report are to be addressed by COAH in the appeal pending before the Appellate Division.

I hereby certify that this resolution was duly adopted by the Council on Affordable Housing at its meeting on

A handwritten signature in cursive script that reads "Renee Reiss". The signature is written in black ink and is positioned above a horizontal line.

Renee Reiss, Secretary
Council on Affordable Housing