

**RESOLUTION GRANTING IN PART FAIR SHARE HOUSING
CENTER'S MOTION TO SETTLE THE RECORD REGARDNING
COAH'S APPROVAL OF THE REGIONAL CONTRIBUTION
AGREEMENT BETWEEN THE BOROUGH OF GIBBSBORO AND THE
BOROUGH OF WOODLYNNE COAH 07-1902**

WHEREAS, the Borough of Gibbsboro, County of Camden ("Gibbsboro"), received second round substantive certification from the New Jersey Council on Affordable Housing ("COAH") on October 11, 1995, with an' obligation of 120 units made up of 112 new construction units and eight rehabilitation units; and

WHEREAS, Gibbsboro filed a motion for extended substantive certification with CO AH on December 13, 2004, which included an amendment to its plan removing the Sherwin-Williams site which provided 56 affordable units, and replacing it with a 56 unit RCA with the Borough of Woodlynne ("Woodlynne"); and

WHEREAS, Gibbsboro applied to the Superior Court of New Jersey, Law Division, for an amendment to its second round plan, and on December 13, 2005, the Honorable M. Allen Vogelson, J.S.C., issued a final judgment of compliance and repose with regard to Gibbsboro's second round plan as amended, and directed Gibbsboro to submit the RCA to CO AH for review, and the Council recommended approval to the court of the RCA at its September 13, 2006 meeting; and

WHEREAS, Fair Share Housing Center ("FSHC") filed a Notice of Appeal of COAH's recommendation on October 27, 2006, and on January 30, 2007, FSHC filed a motion to settle the record; and

WHEREAS, FSHC states that the statement of items comprising the record ("SICR") is incomplete and prevents a fair judicial review of FSHC's challenge of the approval, and contends that COAH's recommended approval of the RCA contravenes the Mount Laurel doctrine and the Fair Housing Act, N.J.S.A. 52:27D-301 - 329, particularly when read in tandem with COAH's Third Round Rules; and

WHEREAS, FSHC maintains that Galloway did not show an alternative route to meeting its affordable housing obligation as required by N.J.S.A 52:27D-311, and that CO AH has not promulgated regulations explaining its interpretation of the FHA, thereby failing to establish adequate standards for reviewing RCAs; and

WHEREAS, FSHC argues that CO AH should not have recommended the court approve the RCA at a rate of \$25,000 per unit rather than \$35,000 per unit and also that COAH should not have recommended to the court approval of an RCA for 56 units, alleging the receiving town only has a third round rehabilitation obligation of 11 units; and

WHEREAS, FSHC requests that COAH add any document that COAH relied upon in making its recommendation that the RCA provides a realistic opportunity for the provision of low and moderate income housing, is within the housing region, is within convenient access to employment opportunities, is consistent with sound comprehensive regional planning and that the RCA eliminates any financial burden resulting from the added fair share; 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 Gibbsboro-Woodlynne 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 they would like a clear statement from COAH to that point.

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

- a. The most recent RCA contract between Gibbsboro and Woodlynne if different than that attached to FSHC's papers;
- b. Resolution 2004-81 of Woodlynne authorizing execution of an RCA, dated December 9, 2004;
- c. Email from Kathy McGlinchy to Kathy Packowski regarding the number of units required for housing conditions survey;
- d. COAH review of Gibbsboro's motion for extended substantive certification, and subsequent correspondence, including:
 - i. Letter from John Jehl, Esq. to Judge Vogelsson, dated June 8, 2005;
 - ii. Letter from Judge Vogelsson to John Jehl, Esq. dated May 31, 2005;
 - iii. Letter from George Cohen, Esq. to Judge Vogelsson dated May 27, 2005;
 - iv. Letter from John Jehl, Esq. to COAH dated May 13, 2005;
 - v. Letter from Lucy Voorhoeve to Mayor Edward G. Campbell, HI dated April 29, 2005;
 - vi. Report reviewing Motion for extended substantive certification, Gibbsboro Borough, dated February 18, 2005;
- e. Gibbsboro's Second Round Housing Element, including:
 - i. Housing Element dated February 14, 1995;
 - ii. Amendment dated December 1, 2004;
 - iii. Amendment dated February 14, 2006;
 - iv. New Housing Element dated May 9, 2006; and

WHEREAS, COAH staff recommends the addition of the above documents to the Statement of Items Comprising the Record ("SICR") 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:

#10 - Letter from Veronica Gitto to Kathy McGlinchy, dated December 13, 2004;

#13 - Letter from Edward Fox to Lee Diane Sasse, Dated August 4, 2006;

#17 - Correspondence from COAH to Judge Vogelsson, dated August 3, 2006;

#18 - Correspondence from Judge Vogelsson to Lucy Voorhoeve, dated August 17, 2006; and

WHEREAS, on May 10, 2007, COAH provided the four requested documents listed above to FSHC; 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 THAT 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 FSHC's objections and assertions regarding COAH's recommended approval of the Gibbsboro/Woodlynne RCA are to be addressed by COAH in the appeal pending before the Appellate Division; 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.

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

A handwritten signature in black ink, appearing to read "Rprrie Reiss", written over a horizontal line. The signature is cursive and somewhat stylized.

Rprrie Reiss, Secretary
Council on Affordable Housing