

**RESOLUTION DENYING FAIR SHARE HOUSING CENTER'S MOTION
TO SETTLE THE RECORD REGARDING COAH'S APPROVAL OF THE
REGIONAL CONTRIBUTION AGREEMENT BETWEEN THE TOWNSHIP OF
COLTS NECK AND THE CITY OF LONG BRANCH 06-1815**

WHEREAS, the Township of Colts Neck ("Colts Neck" or "Township") received a Judgment of Compliance and Repose on December 1, 1986 for the first round, and on June 21, 2004, to address its 1987-1999 cumulative second round affordable housing obligation, which is set to expire on June 21, 2007; and

WHEREAS according to the New Jersey Council on Affordable Housing's ("COAH") 1993-1999 Housing Needs Estimates, Colts Neck has a second round precredited need of 246 units, consisting of 29 units of rehabilitation and 217 units of new construction, being addressed through 88 completed affordable units (66 sale and 22 rental) and 22 rental bonuses in The Grande at Colts Neck development, a 107-unit regional contribution agreement (RCA) with the City of Long Branch, 15 rehabilitation credits and a 14-unit rehabilitation program and the Township's 54-unit rental obligation is being addressed by 22 rental units in The Grande development and a 32-unit rental transfer as part of the RCA; and

WHEREAS the Court approved a Settlement Agreement with Westminster Realty that allows a payment of \$212,500 in lieu of constructing 8.5 affordable units, which will fund part of the Long Branch RCA; and

WHEREAS Colts Neck and Long Branch submitted an executed agreement, dated December 30, 2004, to transfer a total of 107 units, thirty-two of the units are addressing a rental obligation, and are being transferred at \$32,500 per unit and 75 units are being transferred at \$25,000 per unit for a total transfer of \$2,915,000; and

WHEREAS, pursuant to the Fair Housing Act, the RCA was submitted to COAH for its review and recommendation, and the RCA was considered by COAH in a report

dated June 14, 2006, and the Council recommended approval of the RCA to the court at COAH's June 14, 2006 meeting; and

WHEREAS, FSHC contends that COAH's review of the RCA did not conform to the standards set forth in the Fair Housing Act; and

WHEREAS, FSHC maintains that the Council violated the provisions in the FHA for approving an RCA, and requests that COAH discuss the impact of the Third Round rules on Low Income Housing Tax Credit ("LIHTC") developments and the number of RCA units that were permitted to be sent from Colts Neck to Long Branch; and

WHEREAS, on September 7, 2006, COAH, filed a Statement of Items Comprising the Record on Appeal (SICR), and the parties met for a mediation session with the Honorable Harold B. Wells HI, J.A.D. (retired) on October 23, 2006, which did not result in settlement; and

WHEREAS, FSHC argues that FL 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

WHEREAS, FSHC maintains that the only item in the record for the court's review is COAH's June 14, 2006 report and that the report notes that COAH has reviewed the RCA contract, the project plan and the recommendations from HMFA and the Monmouth County Planning Board, but that that these reviews appear nowhere in COAH's proposed SICR and requests the following documents be added to the SICR; and

WHEREAS, FSHC requests that COAH add any document that COAH relied upon in making its determination 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 states that if the above documents do not exist it would like a clear statement from CO AH to that point.

NOW, **THEREFORE**, BE IT RESOLVED **THAT** with respect to FSHC's request for any and all documents, notes, emails, or other information that CO AH relied upon in making its determination that the RCA will be within the same housing region and within convenient access to employment opportunities, FSHC's motion is hereby denied as the SICR filed in the Superior Court, Appellate Division, provides the complete record relied upon by CO AH in conducting its analysis when reviewing the proposed RCA; and

BE IT FURTHER RESOLVED THAT FSHC's request for all documents, notes, emails, etc., that CO AH relied upon in making its determination that the RCA is consistent with sound comprehensive regional planning is denied, as the SICR filed in the Superior Court, Appellate Division, provides the record relied upon by COAH in conducting its analysis when reviewing the proposed RCA; and

BE IT FURTHER RESOLVED THAT COAH complied with its obligation under the Fair Housing Act to review the documents and confirm that the project 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 pursuant to the FHA, the Housing Mortgage Finance Agency is the appropriate entity to review the financial feasibility of a

proposed RCA and the Council appropriately relied on the agency's determination that the project was financially viable; and

BE IT FURTHER RESOLVED THAT FSHC raises legal issues and arguments that should be addressed within the confines of the appeal pending in the Appellate Division and not in a motion to settle the record, and as a result, COAH will address those issues at the appropriate time in the Appellate Division.

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

Kenee Reiss, Secretary
Council on Affordable Housing