

RESOLUTION GRANTING MANASQUAN BOROUGH A WAIVER OF N.J.A.C. 5:95-15.3 PURSUANT TO N.T.A.C. 5:95-14.1 COAH 07-1915

WHEREAS, on December 14, 2004, Manasquan Borough, Monmouth County received second round certification of a Housing Element and Fair Share Plan from COAH, valid through December 14, 2010; 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 July 26, 2006, Manasquan 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 "[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, COAH 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, Manasquan Borough submitted a letter requesting a waiver of N.J.A.C. 5:95-15.3; and

WHEREAS, Manasquan's waiver request dated April 27, 2007 states the Borough has already expended monies for consultants to identify and calculate its third round growth share obligation, and that to require the Borough to prepare a third round Housing Element and Fair Share Plan using COAH's current adopted rules would be a financial hardship for the Borough; and

WHEREAS, Manasquan Borough submitted additional information on April 30, 2007, including a statement of progress regarding the Borough's third round preliminary planning efforts, namely, that during the preliminary planning process the Borough

established an ad hoc committee to develop the third round plan, retained T&M Associates to prepare projections of its residential and non-residential growth for the third round period to determine its growth share obligation and identified mechanisms to address the third round obligation in November of 2006; and

WHEREAS, Manasquan anticipated that it will address its growth share obligation with the following mechanisms:

1. Continue its housing rehabilitation program;
2. Investigate establishing a buy down program and a municipally-sponsored rental acquisition program; and
3. Investigate opportunities for partnering with a non-profit affordable housing developer; and

WHEREAS, the Borough further indicates that it will continue to search for opportunities for property acquisition and to create a partnership with a non-profit for the above programs, and also plans on maintaining its rehabilitation program to address the third round needs for housing rehabilitation; and

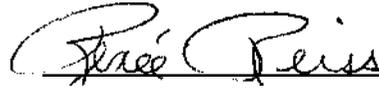
WHEREAS, a COAH Task Force met on May 24, 2007 to consider Manasquan's waiver request and the Task Force recommends that the Borough's request for a waiver of N.J.A.C. 5:95-15.3, pursuant to N.J.A.C. 5:95-14.1, be granted.

NOW, THEREFORE BE IT RESOLVED, Manasquan 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, Manasquan 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 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, is hereby granted with the condition that Manasquan must, within 45 days of the date of this resolution, adopt a resolution committing to petition COAH 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



Rehee Reiss, Secretary
Council on Affordable Housing