

RESOLUTION AUTHORIZING THE BOROUGH OF TINTON FALLS, MONMOUTH COUNTY, TO RELEASE FUNDS FROM ITS AFFORDABLE HOUSING TRUST FUND TO BENEFIT THE AFFORDABLE UNITS LOCATED WITHIN THE FOX CHASE AT TINTON FALLS II CONDOMINIUM ASSOCIATION

WHEREAS The Borough of Tinton Falls ("Borough" or "Tinton Falls") received a Judgment of Compliance on January 18, 1991 from the Honorable Eugene Serpentelli, J.S.C., to address a 590-unit obligation, consisting of a 42-unit rehabilitation component and a 548-unit new construction component; and

WHEREAS Tinton Falls petitioned the Council on Affordable Housing (COAH) with its second round Housing Element and Fair Share Plan on March 26, 1999, addressing its 12-year cumulative affordable housing obligation of 634 units, including a rehabilitation obligation of 12 units and a new construction obligation of 622 units; and

WHEREAS Tinton Falls received second round substantive certification on December 15,2004; and

WHEREAS Tinton Falls' second round certified plan included credits for 112 affordable housing units in an inclusionary development known as FoxChase at Tinton Falls II Condominium Association ("Fox Chase II"), an inclusionary development in Tinton Falls, in which approximately 38 percent of the housing units have been designated as low and moderate income subject to thirty year controls on affordability and which was included in the 1991 Judgment of Repose; and

WHEREAS Tinton Falls submitted a motion dated May 3, 2006 to COAH requesting, among other relief, the ability to loan Fox Chase II money from its affordable housing trust fund to complete necessary repairs to the affordable unit; and

WHEREAS replies were received from the FoxChase II Condominium Association and from a number of the residents of FoxChase II, represented by separate counsel, who occupy the low and moderate income units; and

WHEREAS oral argument was heard at the September 13, 2006 COAH Board meeting; and

WHEREAS the Master Deed for FoxChase II limits the condominium fees on the low income units to 10 percent of the condominium fees paid by the owners of the market rate units, resulting in friction between the affordable and market rate unit owners, constant financial distress for the condo association, and unaddressed but necessary capital repairs and maintenance; and

WHEREAS all of the units contained within FoxChase II are in need of repair, and the Borough wishes to use funds from its Affordable Housing Trust Fund to assist the association in paying for the repair of the affordable units; and

WHEREAS as set forth in the papers submitted, the maintenance to be completed on the affordable units totals approximately \$420,000, itemized as follows:

<u>Item</u>	<u>Cost</u>
Wood Trim	\$116,015.63
PVC aluminum	\$155,640.63
Roof Replacement	\$129,370.72 - \$147,420.72
DCA Repairs	\$20,771.25; and

WHEREAS after considering the papers submitted and after hearing the arguments presented at the Board meeting, CO AH requested additional information and suggested that the parties convene for mediation; and

WHEREAS several mediation sessions between the parties were conducted and an agreement was reached to allow Tinton Falls to issue a grant of up to \$35,000 from its Affordable Housing Trust Fund to assist Fox Chase with needed repairs of the roofs of the buildings containing affordable units; and

WHEREAS at COAH's November 1, 2006 meeting, the Council voted to authorize the agreement between Tinton Falls and Fox Chase, and thereafter, the funds were released and the work completed.; and

WHEREAS significant additional repairs are still needed; and

WHEREAS to aid Fox Chase with proper budgeting and to assist Tinton Falls in determining when and to what extent funding assistance will be offered, the Borough used affordable housing trust funds to obtain an independent engineering report that evaluated the entire development with breakdowns and distinctions between the market-rate and the affordable units; and

WHEREAS a report prepared by Birdsall Engineering dated June 15, 2007 estimates that \$139,050.00 is necessary to complete priority 1, 2 and 3 repairs for the affordable housing units which represent repairs needed immediately, within one year and within two years; and

WHEREAS \$47,625.01 of that amount is for the pending DCA violations regarding the affordable units; and

WHEREAS the Association requested that CO AH authorize Tinton Falls to fund priority 1,2 and 3 of the repairs with affordable housing trust funds.

NOW THEREFORE BE IT RESOLVED that the Borough of Tinton Falls is hereby authorized to expend no more than \$139,050.00 from its Affordable Housing Trust Fund to assist the FoxChase II Condominium Association with repairs of the buildings identified in the Birdsall Engineering report; and

BE IT FURTHER RESOLVED that any agreement or memorandum of understanding drafted by the parties shall be brought to the Council for review prior to it being executed or adopted by the Tinton Falls governing body; and

BE IT FURTHER RESOLVED that in no event shall the total disbursement to the Foxchase II Condominium Association for this phase of the repairs exceed \$139,050.00.

I hereby certify that this Resolution was duly adopted by the Council on Affordable Housing at its meeting on Q ^ U I A L ^ ^ O O ^ >


Renee Reiss, Secretary
Council on Affordable Housing