

RESOLUTION GRANTING CALIFON BOROUGH A WAIVER OF N.J.A.C. 5:95-15.3
PURSUANT TO N.J.A.C. 5:95-14.1

WHEREAS, on June 5, 2002, Califon Borough, Hunterdon County received second round certification of a Housing Element and Fair Share Plan from COAH, valid through June 5, 2008; 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 June 19, 2006, Califon 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 "[m]unicipalities 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 submit 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, Califon Borough submitted a letter requesting a waiver of N.J.A.C. 5:95-15.3; and

WHEREAS, Califon's waiver request dated May 14, 2007 states that the expenditure of funds to prepare a Housing Element and Fair Share Plan is premature as it would be subject to change upon COAH's adoption of amended regulations and presents an unnecessary financial hardship upon the Borough's fiscal resources, that the preparation of a Housing Element and Fair Share Plan is a comprehensive planning task that cannot be thoughtfully undertaken when changes to COAH's regulations are imminent, and that completing the public processes required for the creation of a petition would be a disservice to the Borough's constituency when dramatic rule changes are pending and the process will need to be repeated in the near future; and

WHEREAS, on May 21, 2007 Califon submitted additional information in support of its waiver request including a statement of the Borough's second round progress and third round preliminary planning efforts that sets forth that the Borough has made considerable efforts to develop a third round plan, including the hiring of Ms. Betsy McKenzie, P.P. as a planning consultant, and the Borough's attempts to devise a plan that will provide a realistic opportunity for affordable housing, and pointing out that the whole Borough has been placed within the Highlands Preservation Area; and

WHEREAS, Califon again submitted additional information on June 29, 2007 stating that in January 2006, Califon's planner began to compile the requisite background information (on employment, demographics and population) and the data needed to calculate the growth share obligation and that the Borough's focus has remained on attempting to satisfy the unmet second round obligation of 21 units in addition to its third round obligation and that finally, Califon has been meeting with NORWESCAP and Habitat for Humanity; and

WHEREAS, no opposition was received in response to Califon's motion; and

WHEREAS, a COAH Task Force met on July 12, 2007 to consider Califon's waiver request and recommends that the Borough's request for a waiver of N.J.A.C. 5:95-15.3, pursuant to K.J.A.C. 5:95-14.1, be granted.

NOW, THEREFORE BE IT RESOLVED, Califon Borough has met the waiver requirement of N.J. AC. 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, Califon has shown a good faith effort in continuing to work toward devising a Housing Element and Fair Share Plan; and

BE IT FURTHER RESOLVED, 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 Califon 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 in accordance with COAH's new third round rules to be adopted in accordance with the Appellate Court's decision of January 25, 2007, In Re Adoption of N.J.A.C. 5:94. 390 N.J. Super. 1 (App. Div. 2007) 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 Q USLUL^ZS&I*


Ronie Reiss, Secretary
Council on Affordable Housing