

**RESOLUTION GRANTING BRANCBURG TOWNSHIP A WAIVER
OF N.J.A.C. 5:95-15.3 PURSUANT TO N.J.A.C. 5:95-14.1
(LDRff #<cr)-19zi**

WHEREAS, on August 11, 2004, Branchburg Township, Somerset County, received second round certification of a Housing Element and Fair Share Plan from COAH, valid through August 11, 2010; and

WHEREAS, on May 15, 2006, COAH's rules were amended 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 26, 2006, Branchburg Township 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 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, Branchburg Township submitted a letter dated May 10, 2007, requesting a waiver of N.J.A.C. 5:95-15.3; and

WHEREAS, Branchburg's waiver request was supplemented by a letter from the Township Planner, Elizabeth C. McKenzie, P.P. P.A., outlining steps taken by the Township in preparing its third round Housing Element and Fair Share Plan; and

WHEREAS, the Township submitted a revised motion to COAH on July 11, 2007, as well as another supplemental letter from Ms. McKenzie further detailing Branchburg's affordable housing efforts; and

WHEREAS, the July 11, 2007 submission included a partial draft of the Township's Housing Element and a preliminary determination of the Township's growth share obligation; and

WHEREAS, Ms. McKenzie notes that she has been working with various Township representatives and professionals in gathering demographic data to calculate Branchburg's growth share obligation in accordance with N.J.A.C. 5:94 since January of 2006, and had nearly finalized the calculation at the time of the January 25, 2007 Appellate decision; and

WHEREAS, Ms. McKenzie also contends that in light of the considerable amount already expended by the Township's taxpayers, it would be a further waste of public resources for Branchburg to continue its efforts to comply with COAH's current rules when they are likely to change substantially; and

WHEREAS, the Township's motion concludes that prior to the adoption of revised CO AH rules, Branchburg's efforts in preparing a third round Housing Element and Fair Share Plan "would be a waste of the Township's resources and an unnecessary economic burden on the Township's taxpayers;" and

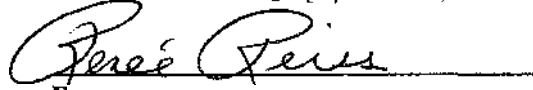
WHEREAS, Branchburg's recent efforts to find new opportunities for the construction of affordable housing include recent development approvals that include 20% set-asides, the construction of a new five-bedroom group home, and the identification of potentially redevelopable sites that would be appropriate for inclusionary development.

NOW, THEREFORE BE IT RESOLVED, Branchburg Township 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 Township; and

BE IT FURTHER RESOLVED, Branchburg 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 submission of a partial draft of the Township's third round plan and recent efforts to find new opportunities for the construction of affordable housing; and

BE IT FINALLY RESOLVED, the Township'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 Branchburg must, within 45 days of the date of this resolution, adopt a resolution committing to petition CO AH with a third round Housing Element and Fair Share Plan 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
~~September 12, 2007,~~

A handwritten signature in cursive script, appearing to read "Lenée Reiss", written over a horizontal line.

Lenée Reiss, Secretary
Council on Affordable Housing