

**RESOLUTION GRANTING PRINCETON TOWNSHIP, MERCER COUNTY,
A WAIVER FROM N.J.A.C. 5:97-8.1(d) COAH 08-2005**

WHEREAS, on October 10, 1996, Princeton Township, Mercer County, received second round certification of a Housing Element and Fair Share Plan from COAH; and

WHEREAS, on December 20, 2005, Princeton Township petitioned COAH with its third round Housing Element/Fair Share Plan; and

WHEREAS, both petitions included spending plans; and

WHEREAS, through the Princeton Township Housing Board, the Township was subsequently made aware of urgent roof repairs/replacement necessary at the Washington Oaks of Princeton Community, a 108-unit housing development containing 60 affordable units; and

WHEREAS, the Township Housing Board determined that such repairs/replacement on the three buildings containing the 60 affordable units would cost \$150,000 and that the Washington Oaks Association had only \$80,000 in its Community Association's Reserve and Repair Account; and

WHEREAS, the Township Housing Board determined that an assessment of \$787.00 per unit would be necessary to cover the difference between the available monies and the cost of the repairs, and found this special assessment as imposing a significant financial hardship on the residents of the affordable units and so recommended that the Township loan the Community Association \$70,000 to cover the cost of the roof repairs, said loan being for a five-year term at an annual interest rate of three percent; and

WHEREAS, by resolution dated March 24, 2008, the Princeton Township Committee accepted the Board's recommendation and resolved to make the loan to the Community Association, subject to COAH's approval of the loan as affordability assistance and approval by COAH of the appropriate amendments to the Township's Spending Plan and Fair Share Plan; and

WHEREAS, on January 25, 2007, the Appellate Division issued a decision on COAH's third round rules, which decision stayed the grant of substantive certification pending the process of amending COAH's regulations; and

WHEREAS, because Princeton had petitioned for third round certification, COAH determined that the Township could not amend its second round Fair Share Plan and spending plan to incorporate the Washington Oaks project; and

WHEREAS, because of the court's stay on third round petitions, COAH did not have a procedure to entertain an amendment to Princeton's third round petition; and

WHEREAS, on April 21, 2008, Princeton Township submitted a motion pursuant to N.J.A.C. 5:95-12, requesting a waiver of the requirements set forth in N.J.A.C. 5:94-6.1(a) (development fees may be used only for projects in a Fair Share Plan) and N.J.A.C. 5:94-6.2(c) (a municipality must have substantive certification of its Fair Share Plan before spending development fees); and

WHEREAS, Princeton Township's rationale for the waiver was to allow the Township to maintain the quality of its affordable housing units, prevent undue hardship on affordable housing unit owners, serve the intent of the COAH rules to ensure that municipalities provide realistic opportunity for affordable housing and, given the urgency of the project, strict application of the COAH rules would prevent the Township from taking proactive steps toward providing affordability assistance to affordable housing unit owners in need; and

WHEREAS, in a letter dated April 24, 2008, COAH acknowledged the receipt of Princeton's motion and stated that any opposing briefs should be filed with COAH not later than May 13, 2008; and

WHEREAS, no replies in opposition were received by COAH; and

WHEREAS, on May 6, 2008, COAH adopted revised third round rules, effective June 2, 2008, negating the need for a waiver from N.J.A.C. 5:94-6.1(a) and N.J.A.C. 5:94-6.2(c) and instead requiring a waiver from N.J.A.C. 5:97-8.1(d); and

WHEREAS, pursuant to N.J.A.C. 5:96-15.2 COAH's review of a waiver shall consider whether the strict application of the rule would create an unnecessary financial, environmental or other hardship, or that such a waiver fosters the production of low- and moderate-income housing, fosters the intent of if not the letter of COAH's rules and whether the Fair Share Plan provides a mix of housing options; and

WHEREAS, Princeton has demonstrated that the proposed use of development fees meets the conditions for the waiver set forth in N.J.A.C. 5:96-15.2 fosters the production of affordable housing; and

WHEREAS, the Township has also committed to include the affordability assistance to the Washington Oaks project in its revised third round Fair Share Plan and spending plan, to be completed within the period required following the effective date of COAH's revised third round rules; and

WHEREAS, COAH staff prepared a report dated May 30, 2008, recommending that the waiver from N.J.A.C. 5:97-8.1(d) be granted.

NOW THEREFORE BE IT RESOLVED that COAH approves the waiver from N.J.A.C. 5:97-8.1(d) which requires a municipality to have a COAH approved spending plan in conformance with N.J.A.C. 5:97-8.10 and N.J.A.C. 5:96-5.3; and

BE IT FURTHER RESOLVED that COAH staff concludes that the waiver permitting the allocation of development fee monies to Washington Oaks fosters the maintenance of affordable housing and fosters the intent if not the letter of COAH's rules; and

BE IT FURTHER RESOLVED that, as a condition of this approval, Princeton shall include the Washington Oaks development in its revised third round Fair Share Plan and spending plan, to be completed within the period required following the effective date of COAH's revised third round rules.

Date: June 11, 2008

Renee Reiss

Renee Reiss, Council Secretary
Council on Affordable Housing