

RESOLUTION GRANTING EDISON TOWNSHIP, MIDDLESEX COUNTY A WAIVER FROM

N.J.A.C. 5:97-8.1(d) and N.J.A.C. 5:97-8.7(a)

COAH DOCKET # 08-2010

WHEREAS, on December 2, 2006, Edison Township, Middlesex County, received from the Court a Final Judgment Approving Compliance and Affordable Housing Element and Fair Share Plan with Conditions; and

WHEREAS, on August 16, 2006, Edison received from the Court an Order Approving Affordable Housing Spending Plan and Increase in Affordable Housing Development Fees; and

WHEREAS, on May 14, 2007, Edison petitioned COAH with its third round Housing Element and Fair Share Plan; and

WHEREAS, Triple C Housing, Inc. ("Triple C") purchased and is in the process of rehabilitating a two-family dwelling located at 21 Knapp Avenue in Edison, comprising two, two-bedroom units, for use as supportive and special needs housing available to low income individuals and housing a maximum of four total residents, all aged 18 or over; and

WHEREAS, to finance the purchase and rehabilitation of the dwelling Triple C received a mortgage commitment from the New Jersey Housing Mortgage and Finance Agency's Special Needs Housing Trust Fund in the amount of \$260,273, Middlesex County HOME funds in the amount of \$205,000, and contributed its own money in the amount of \$86,800; and

WHEREAS, Triple C contributed \$86,800 of its own money toward the purchase and rehabilitation of the dwelling, inclusive of pre-development costs, property improvements, and carrying costs, with the expectation that it would be reimbursed for this contribution from Edison's affordable housing trust fund; and

WHEREAS, in a motion dated July 24, 2008, Edison seeks a waiver from COAH, pursuant to N.J.A.C. 5:96-15.1, from the requirements of N.J.A.C. 5:97-8.1(d) and N.J.A.C. 5:97-8.7(a), enabling the Township to reimburse Triple C in the maximum total amount of \$86,800 for costs associated with purchasing and rehabilitating the dwelling, to be paid from its affordable housing trust fund; and

WHEREAS, N.J.A.C. 5:97-8.1(d) mandates that a municipality may not spend development fees until such time as the municipality obtains approval of its spending plan from COAH and N.J.A.C. 5:97-8.7(d) provides that funds generated by the collection of development fees may only be applied toward housing activity identified in a COAH approved spending plan; and

WHEREAS, the waiver is necessary because the affordable housing project on which the Township wishes to spend affordable housing trust funds is neither identified in its third round Housing Element and Fair Share Plan nor does the Township have a COAH approved spending plan; and

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

WHEREAS, granting the waiver requested would foster the production of affordable housing and would serve the intent of COAH's rules by ensuring that Edison addresses its fair share obligation through a variety of affordable housing options including the creation of supportive and special needs housing; and

WHEREAS, the project presents a realistic opportunity to create affordable housing units in Edison; and

WHEREAS, Triple C indicates that were it to absorb the \$86,800 it loaned in support of the project, it would impede its ability to carry out its objective of providing supportive and special needs housing affordable to low and moderate income individuals by placing on the organization an unanticipated financial burden; and

WHEREAS, no replies in opposition to Edison's waiver request were received by COAH; and

WHEREAS, COAH staff has prepared a report dated September 22, 2008, attached and incorporated as Exhibit A, recommending that the waiver from N.J.A.C. 5:97-8.1(d) and N.J.A.C. 5:97-8.7(a) be granted.

NOW THEREFORE BE IT RESOLVED that the COAH Board finds that the waiver is necessary for Edison to take advantage of an emergent affordable housing opportunity in the municipality, thus fostering the production of affordable housing in the Township, fostering the intent of COAH's rules, and preventing the creation of an unnecessary financial hardship on Triple C ; and

BE IT FURTHER RESOLVED that the disbursement of funds from Edison's affordable housing trust fund to reimburse Triple C for costs associated with purchasing and rehabilitating a two-

family dwelling for use as supportive and special needs housing is consistent with the goal of promoting affordable housing in the Township; and

BE IT FURTHER RESOLVED that COAH grants the waiver from the requirements of N.J.A.C. 5:97-8.1(d) and N.J.A.C. 5:97-8.7(a), with the following conditions:

1. Edison must, within 45 days, adopt a resolution committing to petition COAH by December 31, 2008 with a revised third round Housing Element and Fair Share Plan; and
2. Edison must include the Triple C group home project in its revised third round Housing Element and Fair Share Plan and Spending Plan.

DATED: *September 22, 2008*



Renee Reiss, Council Secretary