

**RESOLUTION GRANTING EWING TOWNSHIP, MERCER 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 # 08-2020

WHEREAS, on February 7, 2001, Ewing Township, Mercer County, received second round substantive certification of its Housing Element and Fair Share Plan from the Council on Affordable Housing (COAH); and

WHEREAS, on February 15, 2007, Ewing petitioned COAH with its third round Housing Element and Fair Share Plan; and

WHEREAS, the Township's third round fair share plan includes a proposed 72 unit affordable independent rental project for seniors 55 and over, and the disabled, said project to be developed by Rely Properties, Inc.; and

WHEREAS, the project, to be known as Ewing Independent Living, will consist of: 14 apartments for special needs/disabled households, all restricted to 30 percent or less of the Regional Median Income (RMI); four two-bedroom units as special needs/disabled apartments; 10 one-bedroom units as special needs/disabled apartments, three of which will be restricted to 30 percent of RMI; and 44 one-bedroom units priced at 50 percent or less of RMI; and

WHEREAS, to finance the construction of the project, which is scheduled for completion by the end of 2008, Rely Properties has received funding from: HMFA Special Needs Housing Trust Fund (\$1,200,000); Sun Bank (construction bridge loan--\$8,786,000); County HOME Funds (\$600,000); DDHP subsidy (\$650,000); Enterprise Green community and LIHTC (\$45,100); HHLB (\$670,105); SNRVL (\$219,000) and (anticipated) Ewing Township affordable housing trust fund monies (\$299,000); and

WHEREAS, the project's feasibility is currently in jeopardy without the release of the requested Township affordable housing trust funds because the equity investor in the project (Enterprise Community Investment, Inc.), from whom the sponsor has an equity commitment of \$3,846,554 from the sale of Low Income Housing Tax Credits (LIHTC), will hold favorable pricing at \$.91 if the project closes by December 15, 2008, said closing being dependent on the project securing a rate lock from

NJHMFA, which is possible only if all identified funding sources are assured, the Township trust fund being a critical part of those funding sources; and

WHEREAS, if the Sponsor loses the monies from the Township affordable housing trust fund, a funding gap will exist, which will cause the project to be infeasible; and

WHEREAS, in a motion dated November 20, 2008, Ewing requested 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 expend \$299,000 from its affordable housing trust fund in support of the 72-unit age-restricted and special needs rental housing development; 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) requires 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 not in 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 Ewing addresses its fair share obligation through a variety of affordable housing options including the creation of supportive and special needs housing; and

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

WHEREAS, COAH staff has prepared a report dated December 10, 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.

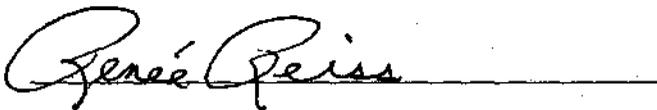
NOW THEREFORE BE IT RESOLVED that COAH finds that the waiver is necessary for Ewing to take advantage of an emergent affordable housing opportunity in the municipality, thus fostering the production of affordable housing in the Township and fostering the intent of COAH's rules; and

BE IT FURTHER RESOLVED that the disbursement of funds from Ewing's affordable housing trust fund in support of the creation of a 72-unit, 100 percent affordable project for elderly and special needs households being developed by Rely Properties 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. Ewing must petition COAH by December 31, 2008 with a revised third round Housing Element and Fair Share Plan; and
2. Ewing must include the Rely Properties elderly and special needs project in its third round spending plan.

DATED: *December 10, 2008*

A handwritten signature in cursive script, reading "Renee Reiss", is written over a horizontal line.

Renee Reiss, Council Secretary