

**RESOLUTION DENYING SJM COMMUNITIES, LLC MOTION TO COMPEL
THE INCLUSION OF THE SJM PROPERTY IN THE TOWNSHIP'S THIRD
ROUND FAIR SHARE PLAN AND SANITARY SEWER SERVICE AREA**

COAH DOCKET # 08-2028

WHEREAS, on November 25, 2008, Henry Kent-Smith Smith, Esq., on behalf of SJM Communities, LLC (SJM) moved to have the Council on Affordable Housing (Council) compel Clinton Township to 1) amend its January 29, 2007 Plan to designate the SJM property as an inclusionary development; and 2) amend its Draft April 2008 Wastewater Management Plan so that SJM's property continues to remain within the sanitary sewer service area; and

WHEREAS, on January 9, 2009, Stuart Koenig, Esq., on behalf of Clinton Township, submitted a letter brief in opposition to the Council requiring the Township to amend its Third Round Housing Element and Fair Share Plan to include SJM's site and to amend its draft April 2008 Wastewater Management Plan to include SJM's property in the sewer service area; and

WHEREAS, Clinton Township submitted, among other arguments, that SJM is not entitled to the relief it is seeking, as Clinton is not required to submit a third round plan until December 9, 2009, in accordance with a November, 12, 2008 Memorandum of Understanding (MOU) entered into between the Council on Affordable Housing and New Jersey Highlands Council; and

WHEREAS, Clinton Township is located within the Highlands Region, where approximately 21,152 acres is within the Highlands Planning Area and approximately 722 acres is within the Highlands Preservation Area; and

WHEREAS, on September 5, 2008, Governor Corzine signed Executive Order 114 which required COAH and Highlands Council to enter into a Memorandum of Understanding (MOU) designed to coordinate the regulations of both agencies to

maximize affordable housing opportunities while preserving critical environmental resources within the Highlands Region; and

WHEREAS, COAH and the Highlands Council entered into said MOU on October 30, 2008; and

WHEREAS, on November 12, 2008, COAH granted municipalities in the Highlands Region under COAH's jurisdiction a waiver of the December 31, 2008 deadline to submit a revised housing element and fair share plan pursuant to N.J.A.C. 5:96-16, until December 8, 2009; and

WHEREAS, the waiver was conditioned upon municipalities submitting, by December 31, 2008, a duly adopted Notice of Intent to Petition in accordance with the Highlands Council's Plan Conformance Guidelines, including both the Highlands Planning Area and the Highlands Preservation Area, as applicable and a duly adopted resolution notifying COAH of its intent to petition COAH for substantive certification of a housing element and fair share plan no later than December 8, 2009; and

WHEREAS, on November 12, 2008 and November 25, 2008 respectively, Clinton Township adopted a resolution seeking an extension of the December 31, 2008 third round petition deadline and a resolution notifying its intent to petition for plan conformance to the Highlands Council; and

WHEREAS, on December 23, 2008, COAH issued a letter to Clinton Township advising that the Township had been granted an extension to December 9, 2009 to petition for Third Round Substantive Certification;

NOW THEREFORE BE IT RESOLVED, that SJM's motion to compel Clinton Township to amend its January 29, 2007 Plan to designate the SJM property as an inclusionary development; and amend its Draft April 2008 Wastewater Management Plan so that SJM's property continues to remain within the sanitary sewer service area be denied without prejudice, to allow Clinton Township the additional time to submit its Third Round Plan in accordance with the November 2008 MOU between COAH and the Highlands Council and the extended deadline of December 9, 2009.

I hereby certify that this Resolution was duly adopted by the Council on Affordable Housing at its meeting on March 12, 2009.



Renée Reiss
Council Secretary