

**RESOLUTION GRANTING TD BANK A WAIVER OF THE HIGHLANDS
SCARCE RESOURCE RESTRAINT TO CONSTRUCT A BANK BUILDING IN
THE TOWNSHIP OF DENVILLE PURSUANT TO N.J.A.C. 5:96-15.2**

COAH DOCKET # 09-2137

WHEREAS, COAH on November 12, 2008 passed a resolution “Granting Extension of Time to file Third Round Petition for Substantive Certification and Imposing Scarce Resources restraint” pertaining to municipalities in the Highlands Region; and

WHEREAS, the Township of Denville, County of Morris, located in the Highlands Region, requested and received an extension of the December 31, 2008 deadline to submit its Third Round Petition pursuant to the above noted resolution; and

WHEREAS, COAH issued correspondence on December 17, 2008 to clarify the Scarce Resource Restraint setting forth a list of exemptions, including exemption #3, “issuance of a building permit where the project has already received all necessary permits and approvals at the municipal and state level as of November 12, 2008, or where a project has received municipal approvals and does not require state permits”; and

WHEREAS, TD Bank sought and obtained preliminary and final Site Plan approval and Minor Subdivision approval for the construction of a bank on Block 314101, Lot 6 in the Township of Denville; and

WHEREAS, all Municipal and State approvals were obtained by TD Bank before November 12, 2008, except approvals from the New Jersey Department of Transportation and the Morris County Soil Conservation District, which were obtained after November 12, 2008; and

WHEREAS, the site which is 3.375 acres is currently developed with a old warehouse covering 36,250 square feet, a building that was used as a self storage facility; and

WHEREAS, the Township, based on the TD Bank application, amended its zoning for the I-1 Zone to allow the bank as a permitted conditional use to create a buffer between the industrial use and the neighboring zone in the area of the site, with the bank construction being intended to help create that buffer; and

WHEREAS, both TD Bank’s Engineer and the Township’s Planner certify the site is inappropriate for residential use; and

WHEREAS, TD Bank states that the bank building will have square footage that is approximately one tenth the existing size of the industrial building presently on the site and will consume fewer resources than the prior permitted industrial uses and will reduce the sewer gallonage produced from the site as compared to the prior tenants' use; and

WHEREAS, the TD Bank representative certifies that: they have incurred application costs of \$402,264.55 plus partial rental payments totaling \$386,161.43; rental costs continue at \$17,167.00 per month; and the Bank continues to lose expected revenues until it may obtain a building permit and begin operations at the site; and

WHEREAS, TD Bank seeks a waiver pursuant to N.J.A.C.5:96-15.2, noting the inability to completely comply with exemption #3 in COAH's Advisory Letter of December 17, 2008 from the Scarce Resource Restraint, because several approvals were obtained after November 12, 2008 and based on financial hardship; and

WHEREAS, the Township supports the motion for waiver and no replies in opposition to TD Bank's waiver request were received by COAH; and

WHEREAS, a Task Force discussed the waiver request on August 24, 2009 and recommended that the waiver be granted.

NOW THEREFORE BE IT RESOLVED that the Council finds that TD Bank demonstrates an existing continuous financial hardship that falls squarely under the financial hardship waiver exception referred to in the waiver regulation; and

BE IT FURTHER RESOLVED that the Council notes that TD Bank is replacing an existing structure and that there will be a reduction in sewer gallonage from the previous use; and

BE IT FURTHER RESOLVED that COAH grants the waiver from the Scarce Resource Restraint imposed upon the Township of Denville, County of Morris, for the TD Bank property.

I hereby certify that this Resolution was
Duly adopted by the council on Affordable
Housing at its meeting on September 9, 2009

A handwritten signature in black ink that reads "Renee Reiss". The signature is written in a cursive, flowing style.

Renee Reiss
Council Secretary