

**RESOLUTION GRANTING INQUIRING MINDS DAY CARE CENTER'S MOTION  
FOR A WAIVER FROM THE SCARCE RESOURCE RESTRAINT FOR SEWER IN  
WINSLOW TOWNSHIP, CAMDEN COUNTY**

COAH DOCKET #09-2143

**WHEREAS**, on October 29, 2008, the Council on Affordable Housing (COAH) found that sewer service capacity is a scarce resource in Winslow Township, Camden County (Winslow or Township); and

**WHEREAS**, as a result of this determination, in In re Petition for Substantive Certification Filed by Winslow Township, Camden County, Motion for Scarce Resource Restraints, COAH Docket No. 08-2011, COAH restrained the allocation of sewer capacity to all development, with the exception of single and two-family homes and developments providing affordable housing; and

**WHEREAS**, in In Winslow Township Amendment and Clarification of Scarce Resource Restraint, COAH Docket No. 08-2029, COAH found that:

The Scarce Resource Restraint is applicable to all development applications in both the Cedarbrook and Sicklerville Service Areas, regardless of whether the project is proposing the use of individual septic systems. Applicants on the Township's waiting list for sewer capacity are not exempt from the Restraint, and individual projects seeking a waiver of the restraint may apply to COAH pursuant to N.J.A.C. 5:96-13 and N.J.A.C. 5:96-15;

and

**WHEREAS**, Winslow petitioned COAH for third round certification under N.J.A.C. 5:97 and N.J.A.C. 5:96 on December 31, 2008; and

**WHEREAS**, the petition was deemed complete on June 24, 2009, and notice was published on July 1, 2009, commencing the public comment period; and

**WHEREAS**, the public comment period ended on August 15, 2009; and

**WHEREAS**, two objections to Winslow's plan were received, on behalf of Taylor Woods LLC and Land Approvals Group, LLC; and

**WHEREAS**, Inquiring Minds Learning Center (IMLC), an existing daycare facility located on East Tauton Road, Block 1502.01, Lot 10.01 submitted a waiver request on June 25, 2009; and

**WHEREAS**, IMLC is proposing the construction of a 1,200 square foot building addition to an existing 2,440 square foot building where its facility is currently located, and requests the waiver so that it may construct the addition in order to provide an additional 25 seats; and

**WHEREAS**, IMLC states that the additional square footage will generate an additional 250 gpd of sewer capacity, which IMLC argues is less capacity than that used by a typical single family home; and

**WHEREAS**, IMLC states that the amount of sewer capacity needed is *de minimus* and is not a substantial amount of capacity that would prevent Winslow from meeting its affordable housing obligation; and

**WHEREAS**, by way of correspondence dated June 24, 2009, Taylor Woods LLC (Taylor) argues that all future motions seeking to deplete the available sewer resources within Winslow should be denied absent the Council granting Taylor's motion for priority to and a reservation of sewer capacity for its project; and

**WHEREAS**, Taylor argues that applications for sewer capacity are representative of a trend whereby market rate residential developers attempt to become "inclusionary" thereby laying claim to Winslow's limited sewer capacity; and

**WHEREAS**, Taylor states that the Council should reject these attempts and by granting them the Council would be using up the remaining sewer capacity for projects that are not providing a substantial amount of affordable housing; and

**WHEREAS**, Taylor further argues that by granting sewer allocation to these projects, the Council is jeopardizing the sewer capacity that Taylor is entitled to under J.W. Field Company, Inc. v. Township of Franklin, 204 N.J. Super. 445, 460 (Law Div. 1985); and

**WHEREAS**, Taylor argues that the J.W. Field case established a priority system in builders remedy litigations and is applicable in the current situation as there is limited sewer capacity and a number would be inclusionary developers seeking to take a claim to those resources; and

**WHEREAS**, a task force convened on August 22, 2009 to discuss the relief requested and recommends that the waiver be granted due to the fact that the day care will be using less capacity than a single family home; and

**WHEREAS**, the task force notes that the Council stated in Resolution Granting Winslow Professional Center's motion for a waiver from the Scarce Resource Restraint for [sic] Sewer in Winslow Township, Camden County, COAH Docket No. 09-2131, a decision rendered at its August 12, 2009 meeting, that while the movant in that case is not the only party seeking a waiver from the scarce resource restraint, it was requesting an amount of sewer capacity less than that needed by a two-family home; and

**WHEREAS**, the task force recommends that this non-residential waiver request be looked at with consideration of the amount of capacity that will be used and that the application is to expand an already existing building; and

**WHEREAS**, the task force recommends that IMLC should be granted a waiver of the scarce resource restraint due to the small amount of sewer capacity need by its project; and

**WHEREAS**, the task force further recommends that IMLC will suffer an economic hardship if it is unable to increase the number of seats offered at the day care.

**NOW THEREFORE BE IT RESOLVED** that the Council grants IMLC's request for a waiver from the scarce resource restraint for the reasons set forth by the task force; and

**BE IT FURTHER RESOLVED** that the Engineer for the Township of Winslow shall monitor actual flow from the development on a quarterly basis and provide the Council with a quarterly report showing the average daily flow produced by the development

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 cursive script that reads "Renee Reiss". The signature is written in black ink and is positioned above the printed name and title.

Renee Reiss  
Council Secretary