

**RESOLUTON DENYING 457 ROUTE 73 MAJOR SITE PLAN A WAIVER OF THE
SCARCE RESOURCE RESTRAINT IMPOSED ON WINSLOW TOWNSHIP,
CAMDEN COUNTY**

COAH Docket Number 09-2134(a)

WHEREAS, on October 29, 2008, the Council on Affordable Housing (Council or COAH) imposed a scarce resource restraint upon Winslow Township, Camden County, In Re Petition for Substantive Certification Filed by Winslow Township, Camden County, Motion for Scarce Resource Restraints, COAH Docket No. 08-2011; and

WHEREAS, following a motion for clarification submitted by Winslow Township, the Council clarified the application of the Scarce Resource Restraints on April 8, 2009, In Re Winslow Township Amendment and Clarification of Scarce Resource Restraint, COAH Docket No. 08-2029 (Restraint); and

WHEREAS, the April 8, 2009 Restraint states,

The Scarce Resource Restraint is applicable to all development applications in both the Cedarbrook and Sicklerville Sewer 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, the Restraint goes on to say,

Pursuant to N.J.S.A. 52:27D-329.9, for all developments consisting of newly-constructed residential units located, or to be located, within the jurisdiction of the Pinelands Commission, it is required that 20 percent of the units constructed are to be reserved for occupancy by low or moderate income households. Therefore, notwithstanding any exemption to the Restraint, a project that did not receive approvals prior to July 17, 2008 and is to be located within the jurisdiction of the Pinelands Commission is required to provide a 20 percent set-aside to the extent this is economically feasible. If an applicant requires an economic feasibility determination such request shall be made to COAH pursuant to N.J.A.C. 5:96-13; 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; and

WHEREAS, during the comment period, which ended on August 15, 2009, objections were received from Land Approvals Group and Taylor Woods, LLC; and

WHEREAS, mediation has been scheduled for December 17, 2009; and

WHEREAS, Peterman Maxcy Associates, LLC, submitted an amended waiver request on behalf of 457 Route 73 Major Site Plan (457) for the construction two (2) one-story office buildings, totaling 12,000 square feet of office space; and

WHEREAS, on August 12, 2009, COAH denied 457's initial request for a waiver to construct four (4) one-story office buildings containing a total of 23,940 square foot of office space and other improvements; and

WHEREAS, 457 argues that the new site plan does not generate a substantial need for sanitary sewer allocation; and

WHEREAS, the sewer allocation will be 0.10 gpd/sf (1,200 gallons per day) minus a 300 gpd credit due to an existing residence being removed as part of the proposed site improvements, so that the total site flow would equal 900 gpd for the two buildings; and

WHEREAS, 457 is proposing, due to the state of the economy, initial construction of the first two buildings and states that it is not economically feasible to only construct one building; and

WHEREAS, 457 states that the earliest occupancy would be early to middle 2010 subject to receiving approval of the waiver request and completion of the approval process with the Township; and

WHEREAS, 457 states that construction of the third and fourth buildings would follow once additional sewer allocation is available; and

WHEREAS, 457 maintains that if the waiver is denied, it would be required to design, receive approval and construct an individual sewer disposal system (i.e. septic system); and

WHEREAS, 457 states that once sewer capacity is available, the owner would be required, under Township Ordinance, to abandon the septic system and connect to the public sewer service system; and

WHEREAS, 457 believes this will have an adverse financial impact on it, particularly because of the nominal amount of sanitary sewer service flow calculated for the project; and

WHEREAS, 457 further states that a septic system addition to the property will reduce or eliminate ratable projects which Winslow Township needs as it is unlikely the developer will proceed if required to use a septic system; and

WHEREAS, a standing objection to all requests for relief from the scarce resource restraint has been submitted by Taylor Woods; and

WHEREAS, no additional opposition was received; and

WHEREAS, a task force convened on October 26, 2009 to discuss 457's motion; and

WHEREAS, the task force notes that 457 previously submitted a motion to the Council for approval of 2094 gallons per day of sewer capacity for all four phases of its project, which was denied by the Council; and

WHEREAS, the task force recommends that the request for sewer allocation be denied but that the site be permitted to go forward with use of a septic system.

NOW THEREFORE BE IT RESOLVED that the Council denies 457's waiver request for 900 gallons per day of sewer capacity; and

BE IT FURTHER RESOLVED that all requests for sewer capacity must be considered in respect to Winslow's ability to provide sewer to affordable housing units and the Council finds that 457's request will use sewer capacity that could otherwise be used for affordable housing; and

BE IT FURTHER RESOLVED that 457 may proceed with its development through the installation of a septic system as this will not adversely affect the ability of Winslow to provide sewer to address its fair share obligation; and

BE IT FURTHER RESOLVED that until such time as the Restraint has been lifted or the Council has otherwise granted permission through the form of a waiver, 457 may not use sewer to serve its project and may only use a septic system.

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

A handwritten signature in cursive script that reads "Renee Reiss". The signature is fluid and elegant, with a large initial 'R' and 'R'.

Renee Reiss
Council Secretary