

RESOLUTION GRANTING IN PART AND DENYING IN PART BERKELEY TOWNSHIP'S REQUEST FOR TWO WAIVERS FOR THE USE OF AFFORDABLE HOUSING TRUST FUNDS

COAH DOCKET # 09-2186

WHEREAS, Berkeley Township, Ocean County did not file for substantive certification or a Judgment of Compliance for the COAH first round; and

WHEREAS, on October 31, 1994, Berkeley Township obtained a Judgment of Compliance from the New Jersey Superior Court for the COAH second round; and

WHEREAS, on December 22, 2008, Berkeley Township filed a Petition for Third Round Substantive Certification and Housing Element and Fair Share Plan with the Council on Affordable Housing (COAH); and

WHEREAS, on March 6, 2009, Berkeley Township's Third Round Petition for Substantive Certification was deemed complete by COAH; and

WHEREAS, during the 45-day comment period, two objections were filed as to Berkeley Township's Housing Element and Fair Share Plan; and

WHEREAS, Berkeley Township seeks two spending plan waivers pertaining to two different projects, AMIB Group Home Renovation and Expansion (Group Home) and Renovation of the Historic School House in Manitou Park (Historic School House); and

WHEREAS, Berkeley Township seeks a waiver to utilize the Township's Affordable Housing Trust Funds (AHTF) for the renovation and expansion of an existing Group Home which is part of Berkeley Township's Third Round Housing Element and Fair Share Plan; and

WHEREAS, on September 8, 2009, Berkeley Township and Association for the Multiple Impaired Blind, Inc. (AMIB) entered into an agreement to renovate a Group Home for a total of 8 bedroom units located at 455 Muller Avenue in Berkeley Township; and

WHEREAS, the Group Home renovation and expansion will provide 8 bedrooms for special needs housing; and

WHEREAS, the bedrooms will be deed restricted and certified by COAH as low income affordable housing; and

WHEREAS, under the agreement Berkeley Township will provide AMIB funding in the amount of \$20,000 per each bedroom unit, up to a total of 8 bedroom units; and

WHEREAS, the Group Home project is ready to proceed and AMIB is requesting Berkeley Township to make disbursements from the AHTF pursuant to the agreement; and

WHEREAS, Berkeley Township is under the jurisdiction of the Council pursuant to N.J.A.C. 5:96-1.2(a); and

WHEREAS, the Council has regulatory authority to review Berkeley Township's spending plan and grant a waiver to spend AHTF pursuant N.J.A.C. 5:96-5.3(a) and N.J.A.C. 5:97-8.1(d); and

WHEREAS, N.J.A.C. 5:97-8.7 describes permitted activities that can be funded from the AHTF; and

WHEREAS, the AMIB Group Home represents a permitted affordable housing activity under N.J.A.C. 5:97-8.7(a); and

WHEREAS, the AMIB Group Home is included in Berkeley Township's Third Round Housing Element and Fair Share Plan; and

WHEREAS, Berkeley Township's AHTF has the funds to meet obligations under the Township's agreement with AMIB to provide from \$20,000 to \$160,000 (\$20,000 per bedroom unit) for up to 8 units of affordable special needs housing; and

WHEREAS, a COAH Task Force convened on January 5, 2010 and recommends that the creation of affordable special needs housing fosters the production of affordable housing, fosters the intent, if not the letter of the Council's rules and provides for a mix of housing options in Berkeley Township's Third Round Housing Element and Fair Share Plan; and

WHEREAS, Berkeley Township also seeks a spending plan waiver as to the Historic School House project; and

WHEREAS, Berkeley Township seeks a waiver to use AHTF to pay a part of the financing for the Historic School House in Manitou Park; and

WHEREAS, the Historic School House project once renovated will be utilized as a Community Center to support the Homes for All Affordable Housing (HFA) in that neighborhood under the Manitou Park Redevelopment Plan (MPRP); and

WHEREAS, the MPRP includes a redevelopment agreement between Berkeley Township and HFA to construct 82 single family homes on infills in Manitou Park; and

WHEREAS, half (41 units) of the single family homes being built pursuant to the redevelopment agreement will be deed restricted as affordable housing family owned units; and

WHEREAS, the 41 single family affordable housing units are included in Berkeley Township's Housing Element and Fair Share Plan; and

WHEREAS, the Historic School House is presently boarded up and is a deteriorated school building; and

WHEREAS, the New Jersey Historic Trust determined that renovation of the Historic School House will cost approximately \$900,000; and

WHEREAS, Berkeley has requested funding from the Historic Trust towards the renovation of the Historic School House; and

WHEREAS, HFA will renovate the Historic School House if Berkeley Township provides the funding; and

WHEREAS, Berkeley Township will utilize the Historic School House as a Community Center for the Manitou Park Neighborhood; and

WHEREAS, Ocean Inc., a non-profit affordable housing organization, will operate a branch office in the Community Center, providing housing assistance services, including training for new homeowners in the neighborhood, financial assistance and other support services for residents in the Manitou Park neighborhood; and

WHEREAS, the Task Force recommends that the description of the renovation of the Historic School House and its usage as a Community Center does not fall within the permitted uses of Affordable Housing Trust Fund dollars in N.J.A.C. 5:97-8.7 and is not an eligible affordable housing expenditure; and

WHEREAS, the Task Force further noted that the New Jersey Fair Housing Act at N.J.S.A. 52:27D-329.2,8.c(1), states that a municipality may only spend development fees for an activity approved by the Council to address the municipal fair share obligation; and

WHEREAS, COAH received no opposition or other reply pertaining to this motion; and

WHEREAS, on January 5, 2010 a COAH Council Task force met and discussed this motion for waivers and recommends that the waiver to use up to \$160,000 in trust funds

for the AMIB Group Home be granted and the waiver to expend trust fund dollars for the conversion of a Historic School House into a community center be denied.

NOW THEREFORE BE IT RESOLVED that the Council grants Berkeley Township's waiver request as to the AMIB Group Home Renovation and Expansion, allowing Berkeley Township to use funds from the Township's Affordable Housing Trust Fund to make expenditures up to \$160,000 pursuant to the terms of the agreement with Association for the Multiple Impaired Blind, Inc., dated September 8, 2009, for the renovation and expansion of up to 8 bedroom units of affordable special needs housing located at 455 Muller Avenue, Berkeley Township, Ocean County, for the reasons set forth above; and

BE IT FURTHER RESOLVED that the Council denies Berkeley Township's waiver request to utilize Berkeley Township Affordable Housing Trust Funds for the renovation of the Historic School House for use as a community center in Manitou Park for the reasons set forth above.

I hereby certify that this Resolution was
duly adopted by the Council on Affordable
Housing at its meeting on January 13, 2010.



Renee Reiss
Council Secretary