

**RESOLUTION GRANTING A WAIVER FROM SPENDING AFFORDABLE HOUSING TRUST FUNDS PURSUANT TO N.J.A.C. 5:97- 8.1(d)**

**Ocean Township, Ocean County**

**COAH DOCKET # 10-2206**

WHEREAS, Ocean Township, Ocean County, petitioned COAH for second round substantive certification of its Housing Element and Fair Share Plan on May 1, 2003 and re-petitioned on September 13, 2004 but was not able to receive second round substantive certification; and

WHEREAS, Ocean petitioned under the initial third round rules on December 20, 2005 and petitioned under the revised third round rules on December 31, 2008; and

WHEREAS, Ocean's Fair Share Plan addresses a total 1987-2018 affordable housing obligation of 385 units, which consists of an 11-unit rehabilitation share, a 236-unit prior round obligation and a 138-unit projected growth share obligation pursuant to N.J.A.C. 5:97; and

WHEREAS, on February 9, 2010, Ocean Township submitted to COAH a request for a waiver from the requirements of N.J.A.C. 5:97-8.1(d) for a project known as the Phase II Senior Housing Project (Willows at Waretown), which is within the Township's Housing Element and Fair Share Plan; and

WHEREAS, the developer has applied to the New Jersey Housing and Mortgage Finance Agency (HMFA) for low income housing tax credit financing under the February 2010 funding round, which requires construction to begin by the end of 2010; and

WHEREAS, as part of an agreement with the developer, Ocean proposes to utilize \$207,000 of the funds from the Township's Affordable Housing Trust Fund (AHTF) to pay the sewer and water connection fees for the 100-unit affordable senior rental project; and

WHEREAS, N.J.A.C. 5:97-8.1(d) mandates that a municipality may not spend development fees until such time as the municipality obtains approval of its spending plan from COAH; and

WHEREAS, the Township received one objection to its Third Round Housing Element and Fair Share Plan from Ocean North Properties, Inc.; and

WHEREAS, negotiations between the municipality and the objector have been continuing outside of COAH mediation, which has delayed the mediation until May 17, 2010; and

WHEREAS, due to the on-going negotiations, substantive certification of Ocean's Fair Share Plan by COAH may not occur before the time the Township needs to expend these funds to pay the water and sewer connection fees, and therefore, Ocean Township has requested a waiver to utilize \$207,000 from the Affordable Housing Trust Fund before receiving substantive certification; and

WHEREAS, according to the Township's spending plan, as of July 17 2008, Ocean had a balance of \$202,149.27 in its Affordable Trust Fund (the fund currently is at \$223,070.47); and

WHEREAS, pursuant to N.J.A.C. 5:96-15.2, COAH may grant a waiver from specific provisions of its rules if it is demonstrated that strict application of the rules would impose an unnecessary financial, environmental or other hardship; or 1) the waiver would foster the production of affordable housing; 2) the waiver would foster the intent, if not the letter of COAH's rules; and 3) the Housing Element and Fair Share Plan provide a mix of housing options; and

WHEREAS, granting the waiver requested would foster the production of affordable housing and would serve the intent of COAH's rules by enabling Ocean to move forward with this affordable housing opportunity and would contribute to a variety of affordable housing options through the creation of age-restricted rental units; and

WHEREAS, based on a preliminary review, COAH staff finds that the project presents a realistic opportunity to create 100 age-restricted, affordable housing rental units in Ocean; and

WHEREAS, COAH received no opposition papers to the Township's waiver request; and

WHEREAS, a COAH task force considered Ocean's waiver request on March 30, 2010; and

WHEREAS, the task force recommends that Ocean's waiver request be granted, with the provision that the developer secure the funds to construct the facility before Ocean Township expends monies from the affordable housing trust fund; and

WHEREAS, the task force finds that the Township has met the waiver requirements of N.J.A.C. 5:96-15.2 by demonstrating that granting the waiver of N.J.A.C. 5:97 8.1(d) would foster the production of affordable housing and serve the intent of the COAH rules by enabling Ocean to move forward with these affordable housing opportunities and that the proposed age-restricted rental housing would contribute to the variety of affordable housing options in the Township.

NOW THEREFORE BE IT RESOLVED that COAH hereby grants the waiver from N.J.A.C. 5:97-8.1(d), permitting the expenditure of \$207,000 by Ocean Township from its affordable housing trust fund for costs associated with sewer and water connection fees for the project known as the Phase II Senior Housing Project (Willows at Waretown); and

BE IT FURTHER RESOLVED that, as a condition of being granted this waiver, the developer shall secure the funds to construct the facility before Ocean Township expends monies from the affordable housing trust fund to pay the sewer and water connection fees; and

BE IT FURTHER RESOLVED that, as a condition of being granted this waiver, the proposed units shall comply with all COAH and UHAC requirements.

I hereby certify that this Resolution was  
Duly adopted by the Council on Affordable  
Housing at its meeting on April 21, 2010.

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  
Council on Affordable Housing