

RESOLUTION GRANTING WAIVER FROM
N.J.A.C. 5:97- 8.1(d)

Burlington Township, Burlington County
COAH DOCKET # 10-2216

WHEREAS, Burlington Township (“Burlington” or “the Township”), Burlington County, received first round substantive certification on March 14, 1994; and

WHEREAS, on December 29, 2008, Burlington petitioned for third round substantive certification of its Housing Element and Fair Share Plan; and.

WHEREAS, the Township first received approval of a development fee ordinance from COAH on September 4, 1996 and approval of an amended ordinance on July 20, 2009; and

WHEREAS, on April 1, 2010, Burlington Township submitted to COAH a request for a waiver from the requirements of N.J.A.C. 5:97-8.1(d) to expend \$300,000 for the extension of expiring controls on 30 properties in three developments within the Township, the affordability controls on which are due to expire between 2010 and 2013; 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, Burlington proposes to utilize \$300,000 of the funds currently on deposit in the Township’s Affordable Housing Trust Fund (AHTF) to extend affordability controls for up to 30 properties currently in Township’s Fair Share Plan, said program being part of the Township’s Third Round Fair Share Plan and spending plan; and

WHEREAS, as part of the waiver request, the Township has submitted a list of 57 properties whose controls will expire from 2010 through 2013. The Township has six commitments from property owners in Shannon Estates to extend the controls for 30 years in exchange for a payment of \$10,000 per unit. Burlington seeks a waiver to disperse a total of \$300,000 for the extension of controls on 30 units at \$10,000 each; and

WHEREAS, according to Burlington Township, as of December 2009, the Township’s Affordable Housing Trust Fund (AHTF) had a balance of \$1,688,329.26; 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 waivers requested would foster the production of affordable housing and would serve the intent of COAH's rules by enabling Burlington to move forward with these affordable housing opportunities and would contribute to a variety of affordable housing options through the preservation of family units; and

WHEREAS, based on a preliminary review, COAH staff finds that the project presents a realistic opportunity to create and maintain 30 affordable housing units in Burlington; and

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

WHEREAS, a COAH task force considered Burlington's waiver request on May 3, 2010; and

WHEREAS, the task force recommends that Burlington's waiver request be granted, finding 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 Burlington to move forward with this affordable housing opportunity and that the maintenance of affordable family sale units would contribute to the variety of affordable housing options in the Township.

NOW THEREFORE BE IT RESOLVED that COAH grants the waiver from N.J.A.C. 5:97-8.1(d) thereby permitting the expenditure of \$300,000 by Burlington Township from its affordable housing trust fund for costs associated with the extension of expiring controls program; and

BE IT FURTHER RESOLVED that, as a condition of being granted these waivers, the proposed units shall continue to 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 May 13, 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