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Our File No.: C22190

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CIVIL CASE MANAGEMENT
UNION COUNTY

IN THE MATTER OF THE BOROUGH
OF NEW PROVIDENCE FOR A
JUDGMENT OF COMPLIANCE OF ITS
THIRD ROUND HOUSING ELEMENT
AND FAIR SHARE PLAN

: SUPERIOR COURT OF NEW JERSEY
: LAW DIVISION: UNION COUNTY
: DOCKET NO.: UNN-L- 2442-15

: (MOUNT LAUREL)

: *Civil Action*

: COMPLAINT FOR DECLARATORY
: JUDGMENT (THIRD ROUND
: HOUSING ELEMENT AND FAIR
: SHARE PLAN)

In the Matter of the Application of the Borough of New Providence

The Borough of New Providence("Borough") by way of Complaint for Declaratory Judgment in accordance with In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015),("Decision") states:

COUNT ONE FOR DECLARATION OF COMPLIANCE

1. The Borough is a municipal corporation which has been duly created and authorized as a public body politic of the State of New Jersey, Union County.
2. In accordance with its constitutional obligations as set forth in S. Burlington Cnty. v. Twp. of Mount Laurel, 92 N.J. 158 (1983) and its progeny ("Mount Laurel"), and the Fair Housing Act, N.J.S.A. 52:27D-301 et. seq. ("FHA") the Borough:

a. Has developed a Housing Element and Fair Share Plan (the "Plan") and a Spending Plan (the "Spending Plan") to meet its fair share obligations under Mount Laurel and in accordance with the FHA. Exhibit A.

b. Has submitted a resolution of participation with COAH. Exhibit B.

c. Is prepared to supplement its Plan to comply with its constitutional obligation to provide for the realistic opportunity for the development of its fair share of low and moderate income housing in accordance with Mount Laurel in accordance with the Decision, prior decisions of the Courts of New Jersey, the FHA and rules and regulations developed and promulgated by COAH that have been approved by the Courts of New Jersey and consistent with all available credits, adjustments, including physical and environmental factors.

3. The Borough has been working diligently in accordance with the FHA and the rules and regulations promulgated and employed by COAH, and decisions of the courts to meet its obligations under Mount Laurel.

4. The Borough received *Substantive Certification* in the First Round on September 18, 1989, and Second Round *Substantive Certification* on August 5, 1998, which was extended until May 11, 2005 and expired on December 20, 2005.

5. A Plan was adopted by the Planning Board of the Borough on November 25, 2008, and the Borough petitioned COAH for *Substantive Certification* on December 30, 2008.

6. On June 1, 2010, the Planning Board of the Borough adopted an amended Plan, which was adopted by the Borough Council on June 14, 2010. Ex. A. As stated in this amended plan, the Borough will be prepared to supplement the plan, if needed.

7. New Providence has a prior round obligation of 134 units. It has a Realistic Development Plan ("RDP") of 54 and an Unmet Need of 80 in accordance with an approved Vacant Land Adjustment ("VLA") of 80.

8. The Borough has met its RDP, and has plans in place to meet its Unmet Need as set forth in the 2010 Plan.

9. The growth share calculated under the rules in place at the time the Plan was adopted and submitted provided for a net growth share of 187 units for the period 1987 through December 31, 2018.

10. As COAH's rules have been in limbo for years, and the Third Round obligations continue to be in limbo, pending the present proceedings being conducted in accordance with the recent decision of the New Jersey Supreme Court, the Borough has not acknowledged in its plan that the existing Plan may need to be modified or supplemented.

11. Additional details of the mechanisms, as well as reductions, credits and adjustments that were proposed are set forth in the Plan in details.

12. Under the unadopted 2014 Third Round rules, the Borough's obligations was as follows:

Rehab Share	Projected Need	Prior Obligation
75	45	0

13. There is no certainty of the fair share number that applies to the Borough. Accordingly, the Borough intends to supplement its plan as necessary based upon the determination of the court on the Borough's fair share number.

14. The Borough has continuously made a good faith effort to implement its affordable housing obligations. This includes:

A. The successful development of 3 inclusionary rental housing developments and a fourth inclusionary development that is currently under construction on Marion Avenue.

B. Assistance to four group homes

C. The granting of "affordability assistance" to 13 home owners to deed restricted Murray Hill Farms Development.

D. CDBG sub grants to rehabilitate Barabash Manor, an affordable senior housing development.

E. A recent affordable housing trust fund grant for a stand by emergency generator at Barabash Manor.

F. Purchase of a foreclosed unit at a Sheriff Sale and its deed restricted resale.

G. The rehabilitation of 4 substandard housing units occupied by income-eligible households through the Union County Multi-jurisdictional Rehabilitation Program.

15. The Borough is currently exploring the use of all available mechanisms as contained in the adopted Third Round Rules as well as the rules from the prior rounds to supplement the Plan to meet the determinations to be made by the Court.

16. In accordance with the Decision, the Borough seeks a determination declaring that its Plan, as it is and/or as supplemented, meets its fair share housing obligations under the FHA and the Mount Laurel doctrine.

17. During the period of time that the Court is reviewing and working with the Borough to meet its Mount Laurel obligations, Borough is entitled immunity from suit by any party or entity, including any claim for builder's remedy.

18. Once the Court has declared that the Plan of the Borough satisfies its Mount Laurel obligation, the Borough is entitled to further repose and immunity from litigation challenging its Fair Share Housing Plan, including any claim for a builder's remedy for the duration of the adopted and approved Fair Share Housing Plan, which the Decision held to be no sooner than 2025.

19. In accordance with the Decision, interested parties are to be noticed of this action, at minimum those parties that participated in the Decision. The Borough will provide notice and service of the filed pleadings to those required by the Decision and to those who have requested notice, other possibly interested parties will be provided notice.

WHEREFORE, the Borough requests the Court enter judgment declaring that:

- a. The Plan of Borough meets the its constitutional obligations under Mount Laurel and the FHA;
- b. The Borough is entitled to immunity and repose from litigation challenging any aspect of its Plan, including any claim for a builder's remedy, until 2025, or as otherwise directed by the Court, and
- c. Such other relief as is proper and just.

COUNT TWO APPROVING DEVELOPMENT FEE ORDINANCE AND SPENDING PLAN

20. The Borough repeats and relies upon each and every allegation set forth in Paragraphs 1-19 herein.

21. The Plan includes a Municipal Development Fee Ordinance ("MDFO") as well as a Spending Plan in accordance with the FHA.

22. In accordance with the MDFO and the Spending Plan, the Borough has been collecting fees for use by Borough in implementing certain aspects of its Plan.

23. The FHA requires MDFO and the Spending Plan to be approved by COAH.

24. In the Decision, the New Jersey Supreme Court removed all aspects of implementation of the FHA from COAH, which has been applied to matters dealing with the Spending Plans adopted by municipalities. See, In Re Failure of the Council on Affordable Housing to Adopt Trust Fund Commitment Regulations, 440 N.J. Super. 220 (App. Div. 2015).

25. In order to continue to meet the provisions of the Plan, the MDFO and the Spending Plan are required to be approved.

26. In the absence of COAH, this determination must be made by the Court.

WHEREFORE, Borough requests the court enter judgment declaring that:

- a. The MDFO and Spending Plan prepared by Borough meet the requirements of the FHA and furthers meets its constitutional obligations under Mount Laurel, and
- b. Such other relief as the Court deems just and proper.

COUNT THREE PRESERVING THE MUNICIPAL HOUSING TRUST FUNDS OF BOROUGH

27. The Borough repeats and relies upon each and every allegation set forth in Paragraphs 1-36 herein.

28. In accordance with the MDFO and the Spending Plan, the Borough has been collecting development fees that are to be used to advance affordable housing needs and programs that are components of its Plan.

29. FHA provided, in part, that the funds collected must be committed within four years of collection or they would be forfeited to the New Jersey Housing Trust Fund and, under certain circumstances to the general funds of the State.

30. COAH failed to adopt regulations to address what constitutes the "commitment for expenditure" of funds, and under what circumstances the funds could be forfeited.

31. The New Jersey Appellate Division ruled that in the absence of appropriate direction from COAH, that the determination of the use of a municipality's collected funds is to be conducted by the Court within this action. In Re Failure of the Council on Affordable Housing to Adopt Trust Fund Commitment Regulations, 440 N.J. Super.220 (App. Div. 2015).

32. The MDFO and Spending Plan prepared by the Borough are components of the Plan, and is a reasonable aspect of the Plan that will enable Borough to meet its regional fair share obligation in accordance with Mount Laurel.

33. A forfeiture of those funds would be contrary to the interests of Borough, the citizens of the State, and would impede the ability of the Borough to implement its Plan as it is constituted or as may be supplemented.

WHEREFORE, the Borough requests the court enter judgment declaring that:

- a. The Fees collected by the MDFO and Spending Plan shall not be forfeited to the New Jersey Housing Trust Fund or to the State General Fund,
- b. The Fees collected by the MDFO and Spending Plan are permitted to be used and shall be used in accordance with the Spending Plan, and
- c. Such other relief as the Court deems just and proper.

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, Steven A. Kunzman, Esq. is hereby designated as Trial Counsel for the Borough of New Providence in the within matter.

R. 4:5-1 CERTIFICATION

Pursuant to R. 4:5-1, the undersigned hereby certifies that at the time of filing the within, the matter in controversy is not the subject of any other action pending in any court and/or arbitration proceeding, and no other action or arbitration proceeding is contemplated, and the

undersigned is unaware of any other party who is potentially responsible to any party on the basis of the facts set forth herein and who should be joined in this action pursuant to R. 4:28 and 4:29-1 et seq.; however, many of the issues to be presented to the Court and to be addressed by the Court will be the subject of other matters that have been or will be filed by other municipalities and, as such, many of these issues may be required to be addressed by the Court in conjunction or simultaneously with other such actions.

R. 4:6-1 CERTIFICATION

The undersigned hereby certifies that this pleading was filed within the time period provided by Rule 4:6-1(c).

CERTIFICATION IN ACCORDANCE WITH R. 1:38-7(b)

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

DiFRANCESCO, BATEMAN, COLEY, YOSPIN,
KUNZMAN, DAVIS, LEHRER & FLAUM, P.C.
Attorneys for the Borough of New Providence

By: 

STEVEN A. KUNZMAN

Dated: July 6, 2015

Exhibit A

HOUSING PLAN ELEMENT & FAIR SHARE PLAN

**BOROUGH OF NEW PROVIDENCE
UNION COUNTY, NEW JERSEY**

Borough of New Providence Planning Board

Adopted June 1, 2010

Prepared By:

**Vito Gallo, P.P.
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- B. COAH Petition Application Form**
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- H. Spending Plan**
- I. Escrow Agreement**
- J. Draft Affordable Housing Ordinance**

I. HOUSING PLAN ELEMENT

A. Introduction

The New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-1 to -136 ("MLUL") and the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 to -329 ("FHA") require every municipal planning board to adopt a Housing Plan Element to its Master Plan and further require the governing body of each municipality to adopt a Fair Share Plan. More specifically, the FHA and MLUL require municipalities to adopt a Housing Element that addresses the municipal present and prospective housing needs, "with particular attention to low and moderate income housing." A municipality's Housing Element shall be designed to achieve the goal of providing affordable housing to meet the fair share obligation, by demonstrating that existing zoning or planned changes in zoning provide adequate capacity to accommodate household and employment growth projections. A Housing Element shall contain at least the following:

1. An inventory of the municipality's housing stock by age, condition, purchase or rental value, occupancy characteristics, and type, including the number of units affordable to low and moderate income households and substandard housing capable of being rehabilitated, and in conducting this inventory the municipality shall have access, on a confidential basis for the sole purpose of conducting the inventory, to all necessary property tax assessment records and information in the assessor's office, including but not limited to the property record cards;
2. A projection of the municipality's housing stock, including the probable future construction of low and moderate income housing, for the next ten years, taking into account, but not necessarily limited to, construction permits issued, approvals of applications for development and probable residential development of lands;
3. An analysis of the municipality's demographic characteristics, including but not necessarily limited to, household size, income level and age;
4. An analysis of the existing and probable future employment characteristics of the municipality;
5. A determination of the municipality's present and prospective fair share for low and moderate income housing and its capacity to accommodate its present and prospective housing needs, including its fair share for low and moderate income housing; and
6. A consideration of the lands that are most appropriate for construction of low and moderate income housing and of the existing structures most appropriate for conversion to, or rehabilitation for, low and moderate income housing, including a consideration of lands of developers who have expressed a commitment to provide low and moderate income housing.

A Housing Element of a municipality's master plan is the first step in the process for petitioning COAH for substantive certification. In addition to the above requirements as established under the MLUL (C.40-55D-28), COAH pursuant to N.J.A.C. 5:97-2.3 requires the following additional components for a third round (Cycle III) petition:

1. Household and employment projections as provided within Appendix F of N.J.A.C. 5:97.
2. The municipal prior round (Cycles I/II) obligation as identified within Appendix C of N.J.A.C. 5:97.
3. The municipal rehabilitation share as identified within Appendix B of N.J.A.C. 5:97.
4. The minimum requirements prescribed by N.J.S.A. 52:27D-310.
5. The projected growth share in accordance with the procedures set forth at N.J.A.C. 5:97-2.4.
6. Supporting information, including a copy of the most recently adopted municipal zoning ordinance and a copy of the most up-to-date municipal tax maps.
7. Any additional documentation pertaining to the review of the municipality's Housing Element as may be required by COAH.

COAH's regulations define "Fair Share Plan" as follows:

"Fair Share Plan" means that plan that describes the projects, strategies and the funding sources, if applicable, by which a municipality proposes to address its affordable housing obligation as set forth in N.J.A.C. 5:97-2.4, and also includes the draft Fair Share Ordinances necessary to implement that plan, and addresses the requirements of this chapter. [N.J.A.C. 5:97-1.4]

On December 20, 2004, the third round substantive and procedural rules of the Council on Affordable Housing ("COAH") became effective. On January 25, 2007, the Appellate Division of the Superior Court of New Jersey delivered an opinion which sustained, and invalidated, certain sections of N.J.A.C. 5:94. In particular, this opinion affected all municipalities' ability to precisely determine their Round III affordable housing fair share and also called into question certain compliance techniques used since December 20, 2004 to address "growth share" obligations. Subsequent to this decision COAH adopted revised third round rules (N.J.A.C. 5:96 and 5:97), which became effective on September 22, 2008. Within these rules, COAH set forth a time frame for submission of a petition for substantive certification for municipalities within Union County of December 31, 2008.

New Providence Borough adopted its previous Housing Plan Element and Fair Share Plan on November 25, 2008 in accordance with NJAC 5:96 and NJAC 5:97. The Borough petitioned COAH for substantive certification on December 30, 2008. Subsequently, two objections were filed. The first objection was filed by Peter H. Garra of the Linde Group on April 23, 2009. The second objection was filed by Kevin D. Walsh of the Fair Share Housing Center on April 27, 2009.

COAH issued a Premediation Report Requesting Additional Information on December 1, 2009. This report requested information about various sites and programs within the Borough's Plan and summarized the objections to the Plan. In response to this report the Borough prepared and submitted correspondence containing the additional information requested on April 9, 2010 in order to address COAH's concerns. This correspondence included a request to rescind the Growth Projection Adjustment and provide a phased approach to satisfying the Borough's COAH mandated growth share obligation of 187 units.

Subsequently, the Borough commenced mediation with COAH and the objecting parties on April 12, 2010. Through the mediation COAH made a determination that the Borough should refile for substantive certification by July 13, 2010.

This Housing Plan Element and Fair Share Plan has been prepared in accordance with the July 13, 2010 deadline for refile as set forth by COAH. This Plan addresses the concerns raised by COAH within the December 1, 2009 Premediation Report Requesting Additional Information. This Plan maintains the approach set forth within the Borough's previously certified Plan to address its prior round obligations including reliance on its previously granted Vacant Land Adjustment.

Additionally, this Plan contains a modified approach to the satisfying the Borough's Growth Share Obligation whereby the Borough proposes to rescind the request for a Growth Projection Adjustment due to the uncertain nature of the regulations at this time. Accordingly, the Borough's Plan contemplates growth through the first biennial review, which for the purposes of the calculations contained herein is estimated to occur on June 30, 2012. Detailed information this approach is included within Section H.

Summary of the Borough's Affordable Housing Obligation

This Housing Element and Fair Share Plan ("Plan") satisfies all of the applicable requirements set forth within the MLUL, FHA, and those requirements set forth in COAH's regulations. This Plan demonstrates how the Borough of New Providence has provided, and will continue to provide, its fair share of the region's affordable housing need. In accordance with the requirements set forth above, this Plan includes a comprehensive Fair Share Plan for the Borough's cumulative 1987-2018 affordable housing obligation. In addition, a "Growth Share" calculation is included within Section H, below. Finally, Section II of this Plan contains the Borough's Fair Share Plan, which includes the strategies, implementation techniques, and the funding sources the Borough of New Providence intends to utilize to implement its Fair Share Plan.

The rehabilitation share, the prior round obligation, and growth share obligation are the three components of a municipal fair share obligation. The revised third round substantive regulations provide recalculated rehabilitation share and the prior round obligation numbers for all the municipalities within Appendix C and Appendix B, respectively. These are the numbers under which municipalities received substantive certification for their second round new construction obligations (prior round obligation). The growth share obligation is initially based upon COAH's growth projections set forth within Appendix F of the third round rules. However, the actual growth share obligation is determined by Certificates of occupancy issued for residential development and jobs created from non-residential development during the January 1, 2004 through December 31, 2018 time period.

In order to create the Fair Share Plan, the Borough of New Providence determined its affordable housing obligations for all three COAH housing cycles. The Borough's prior round obligation, as depicted within Appendix C of the third round regulations, for the period from 1987 to 1999 is 135 units. However, the Borough was previously granted a Vacant Land Adjustment which it is entitled to rely upon pursuant to N.J.A.C. 5:97-5.1(c). This Vacant Land Adjustment divided the 135-unit obligation into a 54-unit Realistic Development Potential obligation and an unmet need of 81 units. The Borough's rehabilitation obligation, as depicted within Appendix B of the third round regulations, for the time period from 2004 through 2018 is 19 units.

In addition to the Prior Round obligation, the Borough must address its growth share. COAH estimates that the Borough's growth share will be 187 units for the January 1, 2004 through December 31, 2018 time period. Based upon the current economic conditions and growth trends from 2004-2009 the Borough believes that the 187-unit growth share estimated by COAH is too high. Therefore, the Borough has taken a phased approach to addressing its growth share. Additionally, the phased approach proposed by the Borough has been selected in order to reflect the current uncertainty of COAH's regulations. The Borough's Plan contemplates growth through the first biennial review, which for the purposes of the calculations contained in this Plan is estimated to occur on June 30, 2012. Additionally, the Plan provides affordable housing mechanisms proposed to satisfy any obligations that accrue during the July 1, 2012 through December 31, 2018 time period.

In order to determine growth share obligation for the January 1, 2004 through June 30, 2012 time period the Borough utilized COAH Workbook B, which is included within Appendix A of this Plan. The calculations included within Workbook B demonstrate that the potential growth share obligation that could occur during the January 1, 2004 through June 30, 2012 time period is 33 units. This calculation is based upon conservative assumptions that likely overestimate the actual growth share obligation that will accrue during this time period. However, in order to maintain a conservative approach to satisfying its affordable housing obligations, the Borough's Fair Share Plan provides sufficient affordable housing units to satisfy the entire 33-unit projected growth share obligation.

The 187-unit growth share obligation calculated based upon COAH's projections less the 33-unit growth share projected during the January 1, 2004 through June 30, 2012 time period yields a remaining potential growth share obligation of 154 units. While the Borough believes that it is clear that the 187-unit growth share obligation calculated based upon COAH's projections is high and unlikely to occur, the Borough has taken a conservative approach and identified mechanisms to address the potential remaining growth share of 154 units during the July 1, 2012 through December 31, 2018 time period. Detailed information about the mechanisms proposed to satisfy all of the Borough's affordable housing obligations are included within the Fair Share Plan in Section II of this Plan.

A summary of the Borough's affordable housing obligations is included within Table 1, below.

Table 1 Summary of 1987-2018 Affordable Housing Obligation	
Rehabilitation Share	19
Realistic Development Potential	54
Unmet Need	81
Growth Share Calculations	
Growth Share Projection for 1/1/04-6/30/12 Based Upon the Borough's Projections	33
Growth Share Projection for 7/1/12-12/31/18 Based Upon COAH Projections	154
Total Potential Growth Share Based Upon COAH's Projections	187

B. Analysis of Housing Stock

As of the 2000 Census, there were 4,485 housing units in the Borough of New Providence, as shown within Table 2, Housing Units. A total of 98 percent were occupied and 2% vacant. Of the 4,404 occupied housing units in the Borough, 3,356 (76 percent) were owner-occupied and 1,048 (24 percent) were rentals. The housing stock consists primarily of single-family detached housing.

Table 2 Housing Units		
Units in Structure	Number	Percent of Total Units
1-Unit Detached	3,332	74.3%
1-Unit Attached	116	2.6%
2 Units	220	4.9%
3 or 4 Units	300	6.7%
5 to 19 Units	157	3.5%
10 to 19 Units	178	4.0%
20 Units or more	182	4.1%
Mobile Home	0	0.0%
Other	0	0.0%
Total	4,485	100.0%

Cost of Housing Stock

The median value of sales housing in Borough of New Providence was \$317,100 according to the 2000 Census. Nearly 46.4% percent of the owner-occupied housing stock was valued at \$300,000.00 or higher, as shown below within Table 3, Value of Sales Housing. In addition, the median value of sales housing in Union County was \$188,800 in 2000.

Table 3 Value of Sales Housing		
Value (\$)	Units	Percentage
Less than 50,000	15	0.5%
50,000-99,999	0	0.0%
100,000-149,999	41	1.3%
150,000-199,999	217	6.9%
200,000-299,999	1,124	35.6%
300,000-499,999	1,465	46.4%
500,000- 999,000	288	9.1%
1,000,000 and up	10	0.3%
Total	3,160	100.0%

For rental units, the median gross rent was \$941.00, according to the 2000 Census. Table 4, Rental Costs, depicts the gross rental costs for specified renter-occupied rental units within Borough of New Providence.

Table 4: Rental Costs		
Rent(\$)	Units	Percent
\$0-199	0	0.00%
\$200-299	0	0.00%
\$300-499	44	4.21%
\$500-749	41	3.93%
\$750-999	503	48.18%
\$1,000-1,499	235	22.51%
\$1,500 or More	184	17.62%
No cash rent	37	3.54%
Total	1,044	100.00%

Units Affordable to Low- and Moderate-Income Households

Low-income households are defined as earning less than or equal to 50 percent of a regional median income. Moderate-income households earn more than 50 percent of regional median income, but less than 80 percent of regional median income.

In addition, COAH has developed a sliding scale for income limits, which defines low- and moderate-income limits based on household size. COAH has determined separate incomes for households from one (1) up to eight (8) persons per household.

Similarly, housing units are to be priced to be affordable to households who could reasonably be expected to live within the housing units. For example, the current COAH rules require that an efficiency unit be affordable to a household of one. The average one bedroom unit should be affordable to a theoretical household of 1.5 people, as shown below within Table 5, 2009 COAH Income Limits for Union County. The average two- and three-bedroom units are to be priced for household sizes of 2.5 and 4.5, respectively.

Table 5: 2009 COAH Income Limits for Union County					
	1 Person	2 Person	3 Person	4 Person	5 Person
Moderate	\$49,008	\$56,009	\$63,010	\$70,011	\$75,612
Low	\$30,630	\$35,006	\$39,381	\$43,757	\$47,258

To be affordable, a household should not be paying more than 28 percent of its gross income on mortgage payments, property taxes, insurance, and homeowner's fees. A rental unit is affordable if the household is paying no more than 30 percent of its income on rent and utilities.

Condition of Housing Stock

The 2000 Census contains information that may be utilized to try to estimate the number of substandard housing units in a municipality. The factors available for analysis are included below.

Year Structure Built: A distinction is made between units built before 1940 and units built thereafter. Research has demonstrated that units built before 1940 are much more likely to be in substandard condition. This factor is probably the most dominant factor in estimating the condition of a municipal housing stock.

Persons per Room: 1.01 or more persons per room is an index of overcrowding.

Plumbing Facilities: Inadequate plumbing facilities are indicated by either a lack of exclusive use of plumbing facilities or incomplete plumbing facilities.

Kitchen Facilities: Inadequate kitchen facilities are indicated by shared use of a kitchen or the lack of a sink with piped water, a stove or a refrigerator.

Heating Fuel: Inadequate heating is use of coal, coke, wood or no fuel for heating.

Sewer: Inadequate sewer services are indicated by a lack of public sewer, septic tank or cesspool.

Water: Inadequate water supply is indicated by a lack of either city water, drilled well or dug well.

Plumbing Facilities: Non-exclusive use of complete plumbing.

Persons per Room: More than 1.01 persons per room.

Age of Housing: Housing built in 1939 or earlier.

Water or Sewer Problem: Deficiency in one or the other.

No Telephone: Absence of telephone in unit.

Nonstandard Heating Fuel: Use of coal, coke, or wood for heating, or no fuel.

COAH describes its approach for estimating the condition of low- and moderate-income housing in a municipality as follows:

It should be realized that any of these characteristics need not signal deficiency on their own. The unit must be occupied by a poor household; be more than 50 years old and contain a single deficiency; or be similarly occupied, by 50 years old or less, but contain an additional detrimental conditional, to signal deficiency. Even then, the unit may not be actually deficient, but there is a high probability that it will be subsequently lost from the housing stock.

This procedure for establishing housing deficiency: (1) is drawn from the literature of the field; (2) encompasses a broad array of physical insufficiency

including such items as incomplete or inadequate kitchen and plumbing, crowding, inadequate heating fuels, and insufficient sewer and water resources; (3) ensures against erroneous inclusion of good units; and (4) provides a very high probability that the housing identified at least in relative terms, is clearly less than adequate.

The 2000 Census indicators presented above were utilized to estimate the presence of substandard housing within Borough of New Providence. Table 6, below, depicts the findings of this analysis.

Most of the Census indicators available at the municipal level indicate a sound housing stock. Zero (1%) percent of the units are occupied by more than 1 person per room, and 99% of the entire housing stock has complete plumbing facilities. Approximately 99% of the housing units contain a telephone and complete kitchen facilities. Most of the units are heated with standard heating fuels such as gas or oil.

Table 6: Housing Characteristics		
Item	Total	Percentage
Number of Persons per Room (4,404 units)		
1.00 or less	4,366	99.1%
1.01 to 1.50	38	0.9%
1.51 or more	0	0.0%
Plumbing Facilities		
Units with Complete Plumbing Facilities	4,397	99.8%
Units Lacking Complete Plumbing Facilities	7	0.2%
Heating Equipment		
Utility Gas	3,878	88.1%
Bottled, tank or lp gas	25	0.6%
Electricity	164	3.7%
Fuel, oil, kerosene, etc.	309	7.0%
Coal or Coke	0	0.0%
Wood	13	0.3%
Solar Energy	0	0.0%
Other Fuels	15	0.3%
No Fuel Used	0	0.0%
Kitchen Equipment		
Complete kitchen facilities	4,404	100.0%
Lacking Complete kitchen facilities	0	0.0%
Telephone		
With telephone	4,396	99.8%
No telephone	8	0.2%
Year Structure Built		
1999 to March 2000	14	0.3%
1995 to 1998	107	2.4%
1990 to 1994	105	2.4%
1980 to 1989	158	3.6%
1970 to 1979	319	7.2%
1969 or earlier	3,701	84.0%

The Borough of New Providence contains relatively older homes, as the majority (84% or 3,701 homes) of Borough of New Providence's housing stock was constructed prior to 1969, with the majority in the mid 1950's. The overall trend in housing construction within the Borough has increased during the 1980s and has subsequently slowed down over the course of the next 2 decades, which is mostly due to the lack of developable land.

C. Projected Housing Stock

Since 1996, Borough of New Providence has issued building permits for 220 housing units and issued permits to demolish 26 units, resulting in a net total of 194 units. According to the Department of Labor data below in Table 7, Dwelling Units Authorized, 114 building permits for multi-family housing and 106 single-family units have been issued from 1996 to 2006. The source for the data below is the New Jersey Department of Labor's New Jersey Residential Building Permits 1996-2006 and the New Jersey Department of Community Affairs Demolition Data for the Borough.

Table 7: Dwelling Units Authorized					
Year	Single family	2 to 4 family	5 or more family	Residential Demolitions*	Total added
1996	5	0	0	3	2
1997	6	4	0	1	9
1998	3	0	6	1	8
1999	5	0	0	0	5
2000	6	0	0	2	4
2001	3	0	0	1	2
2002	2	0	0	0	2
2003	7	0	0	2	5
2004	6	0	0	5	1
2005	25	2	8	7	28
2006	38	0	27	4	61
Total	106	73	41	26	194

Source: US Bureau of the Census, Manufacturing & Construction Division
Prepared by: New Jersey Department of Labor & Workforce Development.

*The US Bureau of Census did not have data for residential demolitions. The residential demolition information for the years 1996-2006 has been obtained from the New Jersey Department of Community Affairs, Division of Codes and Standards website at <http://www.nj.gov/dca/codes/cr/conrep.shtml>; Accessed on Sept 26, 2008.

According to Department of Labor data from 1996-2006, Borough of New Providence added a net total of 194 units to its housing stock. This represents an average net increase of 17.6 new housing units per year. The increase in residential units in the years 2005-2006 differs from that of the previous years in that there was an increase in housing production, which was due primarily to several use variance applications that permitted residential development in a non-residential zone. Overall, New Providence has a limited

amount of developable land and any development in the future will primarily be through redevelopment and infill opportunities. Please note that these numbers are different from the numbers depicted in the growth share calculations. The Growth Share Calculations, included within Section H, has utilized the household and employment projections provided for each municipality pursuant to N.J.A.C. 5:97-2.2(d), which stipulates that the household and employment projections included within Appendix F of the new revised third round rules should be used to calculate the growth share. These are based upon New Jersey Department of Labor and Workforce Development county projections, which are allocated to the municipal level based on the historical trends for each municipality and the extent to which each municipality approaches its physical growth capacity.

D. Demographic Characteristics

The Borough of New Providence has seen a relative stabilization of its population growth between 2000 and 2006, where prior there was a significant reduction in population (10%) between 1970 and 1980. The largest population growth was between the 1950's and 1960's where there was an increase of 203 percent growth in the population, which increased from 3,380 to 10,243.

Year	Population	Percent Change	Population Density*
1930	1,918	-	521.20
1940	2,374	23.77%	645.11
1950	3,380	42.38%	918.48
1960	10,243	203.05%	2783.42
1970	13,796	34.69%	3748.91
1980	12,426	-9.93%	3376.63
1990	11,439	-7.94%	3108.42
2000	11,907	4.09%	3235.60
2006	11,915	0.07%	3237.77
2010	12,030	0.97%	3269.02
2020	12,710	5.65%	3453.80

*Population Density displayed as residents per square mile. Sources: U.S. Census Bureau; State of New Jersey Department of Labor and Workforce Development website at <http://www.wnjin.net/OneStopCareerCenter/LaborMarketInformation/Int01/poprd6.htm>; Accessed August 2008. 2010 and 2020 Projections: North Jersey Transportation Planning Authority. <http://www.njtpa.org/DataMap/Demog/Forecast/default.aspx>; Accessed August, 2008

The Borough's Master Plan envisioned that residential development would decrease as vacant land is consumed. As Table 8 illustrated above, the Borough experienced a net population increase of 4% in the period of 1990 to 2000, which legitimized the assumptions of the Borough's Master Plan. Additionally, the fact that New Providence does not have a substantial amount of developable property left suggests that most new development will be in the form of redevelopment or infill opportunities.

The median age in the Borough of New Providence (39.0 years) is slightly higher than the median age of Union County (36.6 years) as shown below in Table 9, Population by Age Cohort. In addition, the number of residents age 65 and over in Borough of New Providence (15.29%) is also slightly higher than that of Union County (13.79%).

Table 9 Population Comparison by Age Cohort		
Age	New Providence	Union County
Under 5	7.84%	6.97%
5 to 19	19.78%	20.13%
20 to 24	2.72%	5.70%
25 to 44	31.04%	31.31%
45 to 64	23.32%	22.10%
Over 65	15.29%	13.79%
Total	100.00%	100.00%
Median Age	39.0	36.6

The 2000 Census indicates that the median income of Borough of New Providence residents (\$90,964) was significantly higher than the median income for Union County (\$55,339) or the State (\$55,146). In addition, the per capita income of Borough of New Providence residents was \$42,995, the Union County per capita income was \$36,992, and the per capita income for all New Jersey households was \$27,006. Further, over 44.9 percent of Borough of New Providence households earned \$100,000 or more. The corresponding percentage for Union County was 22.0 percent. A distribution of households by income for the Borough of New Providence and Union County is presented within Table 10, Households by Income, below.

Table 10 Households by Income (%)		
Income (\$)	New Providence	Union County
Less than \$10,000	1.1	6.9
\$10,000-\$14,999	2.2	4.8
\$15,000-\$24,999	4.4	9.5
\$25,000-\$34,999	6.6	10.2
\$35,000-\$49,999	9.1	13.7
\$50,000-\$74,999	17	19.7
\$75,000-\$99,999	14.6	13.2
\$100,000-\$149,999	21.5	12.8
\$150,000-\$199,999	11.3	4.5
\$200,000 or more	12.1	4.7
Median Household Income	\$90,964	\$55,339

E. Employment Characteristics

The 2000 Census reports on work activity of residents 16 years and older. The New Providence workforce is comprised of 3270 men (54.6%) and 2,717 women (45.4%). Of which the average commuting time of a Borough of New Providence worker was 30.2 minutes. The majority (95.5%) of residents of Borough of New Providence are not self-employed, but work within the private sector, as shown below within Table 11, Classifications of Workers.

Table 11 Classification of Workers		
Class	New Providence Total	% Of Workers
Private Wage and Salary	4,880	75
Government Workers	731	11.6
Self Employed	368	4.4
Unpaid Family	8	0.1

An analysis of the employed (over the age of 16) by economic sector indicates that the majority of Borough of New Providence workers were involved in management/professional, sales/office occupations and service related occupations. As depicted in Table 12 below, the highest concentration of workers at 60 percent of the total workforce was in management, professional and related occupations, followed by the second highest category of sales and office occupations accounting for 24 percent of the total jobs. The next closest concentration of jobs was held by service occupations at 7 percent of the total workforce.

Table 12: Workforce by Sector		
Sector	Employees (5987 workers)	% of Workforce
Management, Professional, and related occupations	3601	60
Service Occupations	437	7
Sales and Office occupations	1,440	24
Farming, fishing, and forestry occupations	0	0
Construction, extraction and maintenance	314	5
Production, transportation, and material moving	195	3

The workforce occupation characteristics in New Providence were compared with that of Union County. As indicated in Table 13, the occupation characteristics of the Borough's residents differ with that of workers residing in the County. The Borough maintains a significantly higher percentage of workers in the management, professional and related occupations at a rate of 60% compared to only 35 % for Union County. Union County maintains a slightly higher percentage of workers in sales and office occupations, construction, extraction and maintenance as well as all services occupations. Both the Borough and County Occupational Characteristics are summarized within Table 13, Occupation Characteristics.

Sector	New Providence (%)	Union County (%)
Management, Professional, and related occupations	60.1	35.4
Service Occupations	7.3	13.3
Sales and Office occupations	24.1	28.4
Farming, fishing, and forestry occupations	0	0.1
Construction, extraction and maintenance	5.2	7.6
Production, transportation, and material moving	3.3	15.3

In addition, in order to understand what implications this employment has for the Borough and understand what the employment field and trends are for New Providence and Union County, the New Jersey Department of Labor (NJDOLE) has prepared projections, which analyze the expected increase or decrease in a particular employment sector by the year 2014. This data has been summarized and is illustrated within Table 14.

Table 14 Union County Projected Employment				
Occupation	2004	Percent	2014 Projection	Percent Change +/-
Total	263,750	100.0	285,950	100.0
Management Occupations	14,550.0	7.7	15,950.0	9.5
Professional	63,400	33.4	72,950	15.1
Sales & Related Occupations	21,350	11	23,500	10
Admin Support & Clerical	46,650	18	46,650	16
Service Occupations	45,900	24	54,500	19
Construction/Extraction	12,500	5	13,550	5
Maintenance/Repair Operations	10,100	4	10,700	4
Production/Transportation/Moving Occupations	42,750	23	41,200	-4
Source: New Jersey Department of Labor, 2004				

As indicated in Table 14, it is projected that in 2014 employment will increase in all sectors of employment except in production/transportation/moving occupations, which is projected to have a 4 percent reduction in employment.

F. Determination of Low- and Moderate-Income Housing Need

The Mt. Laurel decisions established that every municipality is responsible for a "fair share" of a regional affordable housing need. COAH, pursuant to the Fair Housing Act, is responsible for defining regions and developing criteria for establishing each municipality's share of the regional need. The Borough of New Providence is located within Affordable Housing Region 2, consisting of Essex, Morris, Union and Warren.

The need for affordable housing in the municipality is the sum of the rehabilitation share, prior round obligation and growth share. The Borough has been assigned a rehabilitation obligation of 19 units by COAH. Additionally, the Borough has been assigned a prior round obligation of 135 units by COAH. Through a Vacant Land Adjustment (VLA) granted on August 5, 1998 as part of the Borough's second round substantive certification, the 135-unit prior round obligation was been divided into a Realistic Development Potential obligation of 54 units and an unmet need of 81 units. Detailed information about the VLA is included within Section G of this Plan.

On September 22, 2008 COAH's revised third round rules became effective. Within these rules, COAH included a "growth share" methodology, in which the need for affordable housing is based upon projected growth by a municipality, instead of the municipality

being assigned a specific number of new construction affordable units to be provided independent of actual growth. The need for affordable housing in the municipality is the sum of the rehabilitation share, prior round obligation and growth share.

The unadjusted Growth Share projected by COAH for the Borough of New Providence for the time period from January 1, 2004 through December 31, 2018 is 187 units. Once eligible exemptions are subtracted from the projection the Borough's growth share is reduced to 173 units based upon COAH's projections as demonstrated within COAH Workbook B in Appendix A of this Plan. However, in order to take a conservative approach the Fair Share Plan contained within Section II of this Plan is designed to address the entire 187-unit growth share projection estimated by COAH.

The revised third round regulations stipulate that the actual growth share obligation should be based on permanent certificates of occupancy (CO) issued within the municipality for market-rate residential units and jobs resulting from newly constructed, re-occupied and expanded non-residential developments. However, the Borough of New Providence believes that it is clear that the growth share obligation of 187 units projected by COAH is unrealistic, as it overestimates the number of residential units and jobs anticipated to be realized during the 2004-2018 time period. Due to this overestimation of growth and the current uncertainty of COAH's regulations the Borough has chosen to utilize a phased approach to addressing its growth share. Accordingly, the Borough has revised its Plan to contemplate growth through the first biennial review of its Plan, which for the purposes of the calculations contained in this Housing Plan Element and Fair Share Plan is estimated to occur on June 30, 2012. The conservative approach utilized to project the growth share that is anticipated to occur through June 30, 2012 yielded a projected growth share of 33 units. Detailed information about the growth share calculation is included within Section II of this Plan.

Table 15 provides a summary of the Borough's Round I, II and III affordable housing obligations.

Table 15 Summary of 1987-2018 Affordable Housing Obligation	
Rehabilitation Share	19
Prior Round Obligation	135
Growth Share Calculations	
Total Growth Share Projected by COAH	187
Municipally Calculated Growth Share Obligation Through June 30, 2012	33
Difference Between Municipal Calculation and COAH's Projections	154

G. Vacant Land Adjustment

The Borough was granted a Vacant Land Adjustment on June 5, 1989 as part of its first round substantive certification. The VLA was calculated in accordance with applicable sections of COAH's regulations by identifying only those parcels that met the minimum size and other requirements to be deemed to maintain a realistic development potential for the construction of affordable housing. Based upon the VLA analysis it was

determined that the Borough maintains sufficient vacant land to provide a Realistic Development Potential (RDP) to construct 54 affordable housing units.

Subsequent to the calculation of the RDP the Borough was required to calculate its unmet need. The unmet need is simply the difference between the 54-unit RDP and the 135-unit prior round obligation which is 81 units, as calculated below.

$$\begin{aligned} \text{Prior Round Obligation} - \text{RDP} &= \text{Unmet Need} \\ 135 - 54 &= 81 \end{aligned}$$

N.J.A.C. 5:97-5.3 sets forth the various mechanisms by which a municipality may address its unmet need. The Borough utilized inclusionary zoning for six (6) properties and the adoption of a Development Fee Ordinance as the mechanisms to address the unmet need in accordance with N.J.A.C. 5:97-5.3. The Plan to address the RDP and unmet need is discussed in detail within Section II (Fair Share Plan).

H. Growth Share

COAH's revised third round rules include the methodology for preparing a municipal growth share projection. The "growth share" methodology is based upon projected growth by a municipality, instead of the municipality being assigned a specific number of new construction affordable units to be provided independent of actual growth. The municipal growth share for Borough of New Providence was calculated in accordance with COAH's amended third round Substantive Rules (N.J.A.C. 5:97), which became effective on September 22, 2008.

N.J.A.C. 5:94-2.4 sets forth the requirements for calculating a municipality's growth share based upon the projections provided within Appendix F of the third round rules. Appendix F includes projections for housing anticipated to be built and non-residential employment growth projected through 2018. N.J.A.C. 5:94-2.5 contains the provisions whereby municipalities may calculate their own growth share. The municipal growth share projection is based upon Certificates of Occupancy ("COs") anticipated to be issued during the time period between January 1, 2004 and December 31, 2018.

As mentioned previously, the Borough proposes to rescind the request for a Growth Projection Adjustment that was set forth within the 2008 Housing Plan Element and Fair Share Plan due to the uncertain nature of the regulations at this time. Accordingly, the Borough's Plan contemplates growth through the first biennial review, which for the purposes of the calculations contained in this Plan is estimated to occur on June 30, 2012. Detailed information about this approach is included below.

Growth Share Projected by COAH

COAH's projection included within Appendix F of the third round rules estimates that a total of 360 residential units and 1,845 jobs would be realized during the 2004-2018 time period. When you divide the 360-unit projection by five (5), this calculation yields an unadjusted residential growth share of 72 units. When you divide the 1,845 jobs by 16,

this calculation yields a total non-residential growth share of 115 units. Therefore, Borough of New Providence's total unadjusted growth share is the sum of the residential growth share (72 units) plus the non-residential growth share (115 units), which yields a total growth share of 187 units.

COAH allows municipalities to adjust the projection to exclude certain types of development, such as affordable housing units that address the prior round obligation. COAH permits affordable housing units and market rate units associated with prior round affordable housing projects (at a rate of up to four times the number of affordable units are permitted) that have been or are anticipated to be constructed during the 2004-2018 time period to be subtracted from COAH's residential growth share projection. After subtracting eligible units the remaining number of units is divided by five (5) to yield the adjusted residential growth share obligation. Units eligible for exclusion total 70, as summarized within COAH Workbook B within Appendix A and Table 16.

Table 16 Affordable and Market Rate Units in Inclusionary Developments to be Excluded from the Growth Projection			
Project or Inclusionary Site	Affordable Units	Market Rate Excluded	Total Excluded
Spring Garden Apartments (27)	6	21	27
Stonefields - 50 Union Avenue Development (9)	2	7	9
Marion Site (16)	4	12	16
Patriot Village (18)	4	14	18
Total	16	54	70

In accordance with N.J.A.C. 5:94-2.4 and COAH Workbook B, the adjusted COAH Growth Share Projection has been calculated to be 58 units. Table 17 provides a summary of this calculation.

Table 17 Adjusted COAH Growth Share Projections	
Growth Share Type	Residential Units
COAH's Residential Growth Projection for 2004-2018	360
Total Eligible Units to be Excluded	70
Subtotal*	290
Subtotal divided by 5:	290/5
Total Residential Growth Share	58

N.J.A.C. 5:97-2.4 also sets forth the requirements for calculating the adjusted non-residential growth share obligation. As none of the projects included within the Borough qualify for exclusion, the non-residential growth share is simply the unadjusted COAH non-residential growth share projection (1845) divided by 16, which yields a non-residential growth share of 115 units. Therefore, Borough of New Providence's total adjusted growth share is the sum of the residential growth share (58) plus the non-residential growth share (115 units), which yields a total growth share of 173 units.

Although the Borough is entitled to the 70 eligible exemptions identified above, the Borough has taken a conservative approach and designed the Fair Share Plan to address the entire 187-unit projection set forth by COAH. However, the Borough reserves the right to claim credit for these exemptions in the future.

Municipal Growth Share Calculation

N.J.A.C. 5:97-2.5 contains the provisions whereby municipalities may calculate their own growth share. The municipal growth share projection is based upon Certificates of Occupancy ("COs") anticipated to be issued during the time period between January 1, 2004 and December 31, 2018.

As mentioned previously, the Borough has taken a phased approach to implementing its Growth Share Obligation due to the current uncertainty of COAH regulations. The Borough's Plan contemplates growth through the first biennial review, which for the purposes of the calculations contained in this Plan is estimated to occur on June 30, 2012. Additionally, the Plan provides affordable housing mechanisms proposed to satisfy any obligations that accrue during the July 1, 2012 through December 31, 2018 time period.

In order to determine growth share obligation for the January 1, 2004 through June 30, 2012 time period the Borough utilized COAH Workbook B, which is included within Appendix A of this Plan. The calculations included within Workbook B demonstrate that the potential growth share obligation that could occur during the January 1, 2004 through June 30, 2012 time period is 33 units. This calculation is based upon conservative assumptions that likely overestimate the actual growth share obligation that will accrue during this time period. However, in order to maintain a conservative approach to satisfying its affordable housing obligations, the Borough's Fair Share Plan provides sufficient affordable housing units to satisfy the entire 33-unit projected growth share obligation.

The 187-unit growth share obligation calculated based upon COAH's projections less the 33-unit growth share projected during the January 1, 2004 through June 30, 2012 time period yields a remaining potential growth share obligation of 154 units. While the Borough believes that it is clear that the 187-unit growth share obligation calculated based upon COAH's projections overestimates growth and is unlikely to occur, the Borough has taken a conservative approach and identified mechanisms to address the potential remaining growth share of 154 units during the July 1, 2012 through December 31, 2018 time period. Detailed information about the mechanisms proposed to satisfy all of the Borough's affordable housing obligations are included within the Fair Share Plan in Section II of this Plan.

Table 18 Growth Share Projection Summary	
Total Growth Share Projected by COAH	187
Municipally Calculated Growth Share Obligation Through June 30, 2012	33
Difference Between Municipal Calculation and COAH's Projections	154

I. Identification of Lands Appropriate for Low- and Moderate-Income Housing

The Borough of New Providence identified nine sites to address its prior round obligation in addition to a 100 percent age restricted affordable housing project on Block 50, Lot 14.02 (Elizabeth Barabash Manor) within its previously approved Prior Round Plan. To this date six of the nine sites have been developed. Below is a list of the inclusionary development sites previously approved by COAH within the Prior Round Plan:

Block 376, Lot 1 (Murray Hill Farms)
 Block 192, Lot 27 (Stonefields)
 Block 341, Lot 2 (Southgate at Murray Hill)
 Block 340, Lot 7 (The Villages at New Providence)
 Block 121, Lots 26 & 27 (Patriot Village)
 Block 103, Lot 24 (Spring Gardens)
 Block 234, Lots 15, 17, 19, 20 & 27 (Marion Avenue Site; remaining opportunity)
 Block 310, Lot 1 & 2 (remaining opportunity)
 Block 311, Lot 1, 2 & 3 (remaining opportunity)

All but four of the above sites have been developed and currently provide housing to low- and moderate-income households. The status of the four sites that do not currently contain affordable housing units is included below:

Block 234, Lots 15, 17, 19, 20 and 27

This 2-acre tract, known as the Marion Avenue Site, is currently zoned as A-2 – Affordable Housing District, which permits a 20% affordable housing set aside. This site is anticipated to yield four (4) affordable housing units under the current zoning. This site is under one ownership and remains viable as a multifamily housing site. The Borough expects the site to develop as an inclusionary project once the current economic crisis passes.

Block 192, Lot 27

This site will shortly be the sixth inclusionary housing site to be successfully developed in the Borough. The site plan for the development of this 1-acre site, known as Stonefields at New Providence, which is located in the A-2 Affordable Housing District, was formally approved by the New Providence Planning Board on October 2, 2007. Site work has begun and the developer advises that construction of this 9-unit inclusionary housing development is anticipated to commence in 2010.

Block 310, Lots 1 and 2

This inclusionary site, which is located in the A-2 Affordable Housing District, is anticipated to contain a total of five (5) affordable housing units. The site is in two ownerships, with the Alcatel-Lucent Corporation owning a portion of the property. The only impediment to development of the site is the current economic recession.

Block 311, Lots 1, 2 and 3

This inclusionary site, also located in the A-2 Affordable Housing District is anticipated to contain a total of five (5) affordable housing units. This site is under three ownerships, with the Alcatel-Lucent Corporation owning a portion of the site. The only impediment to development of the site is the current economic recession.

In addition to the inclusionary developments identified above, the Borough maintains a total of five (5) alternative living arrangement facilities within its Round 1 & 2 Plan. As the Borough maintains very little vacant developable land, the utilization of existing housing stock to create these facilities was ideal for the development of affordable housing within New Providence.

With regard to the identification of lands that are appropriate for the development of low- and moderate-income housing to address the Borough's growth share, the Borough's opportunity for new development is severely limited due a scarcity of suitable vacant developable land. This fact has been demonstrated within the original Vacant Land Adjustment prepared during Round 1.

More recently, the New Providence Borough Planning Board analyzed the existing municipal land use map and inventory for areas that may develop or redevelop to identify additional opportunities that may accommodate growth and corresponding affordable housing during the preparation of the 2009 Reexamination of its Master Plan. This Reexamination Report, adopted on September 22, 2009, includes recommendations for the consideration of four (4) potential overlay zoning/redevelopment sites. As the development of these four sites with affordable housing is in accordance with the Borough's Master Plan. Detailed information about the four (4) potential redevelopment sites is included below.

1. Block 237, Lot 7.01: This 1.45-acre tract is located at the corner of Marion Avenue and South Street. The site is currently zoned as OR-Office Residential. The New Providence Borough Planning Board has recommended that an overlay zone be considered to permit the site to be developed with a 100% affordable housing development. This site is located within the PA1 Planning Area, COAH recommends a presumptive density of eight (8) units per acre. Therefore, this 1.45-acre tract has the potential to be developed with approximately 11 affordable housing units.
2. Block 163, Lots 1, 2.01, 2.02, 41 & 42: This 0.9-acre tract is located at the corner of 1st Street and South Street and is currently zoned as OR-Office Residential. The

Planning Board has recommended that an overlay zone be considered to permit the site to be developed with a 100% affordable housing development. As this site is located within the PA1 Planning Area, this 0.9-acre tract has the potential to be developed with approximately 7 affordable housing units at a minimum density of 8 units per acre.

3. Block 222, Lots 1, 2 & 3: This 12.35-acre tract is located at the corner of Central Avenue and Chanlon Road. The site is currently split zoned within the C-1 – Specialty Commercial District and the LI - Light Industrial District. The Planning Board has recommended that an overlay zone be considered to permit the site to be developed with mixed-use inclusionary housing comprised of commercial and residential components. It is anticipated that this site could accommodate at least 15 affordable units as part of an inclusionary mixed-use development.
4. Block 234, Lots 15, 27, 17, 19, & 20: As mentioned previously, this 2-acre tract, known as the Marion Avenue Site, is currently zoned as A-2 – Affordable Housing District, which permits a 20% affordable housing set aside. This site is anticipated to yield four (4) affordable housing units under the current zoning. The Planning Board has recommended that this site be rezoned to permit 100% affordable housing development. The recommended zoning change would enable the site to yield a total of 16 affordable housing units, which represents an increase of 12 affordable units over the current zoning.

While all of the above referenced sites represent a potential future opportunity for the construction of affordable housing the Borough has taken a conservative approach and has included Block 234, Lots 15, 27, 17, 19, & 20 for only four affordable housing units within its Plan, as it currently exists within the Round 1 & 2 Plan. Additionally, the 15 affordable housing units anticipated from Block 222, Lots 1, 2 and 3 have been included within the Round 3 Plan to address a portion of the growth share. Block 237, Lots 7, 01 and Block 163, Lots 1, 2, 01, 2, 02, 41 & 42 have not been included within the Round 3 Plan at this time. However, the Borough reserves the right to modify its Fair Share Plan to include the properties in the future.

The Borough has addressed its growth share obligation through inclusionary zoning, alternative living arrangement facilities, 100% affordable and municipally sponsored developments, and a Market to Affordable program. The mechanisms combine to provide a total of 187 affordable housing credits, which fully satisfies the Borough's COAH mandated 187-unit growth share projection. Each of these mechanisms is described in detail within Section II of this Plan.

Subsequent to the submission of its petition for substantive certification the Borough received two objections, as noted below. The first objection was from Peter H. Garra, Director of Real Estate Legal Services, on behalf of the Linde Group, dated April 23, 2009. This objection requested that Block 370, Lot 1 and Block 380, Lot 20 ("Linde Site") be included within the Fair Share Plan. The Borough has chosen not to include this site within its Fair Share Plan for the reasons outlined below.

In the prior round the Borough received a vacant land adjustment, and in conjunction with that adjustment six sites were identified and approved as sites for zoning to capture some of the unmet need. The Linde North America site was not one of those six. Based upon N.J.A.C. 5:97-5.1, the Borough has a right to rely upon the vacant land adjustment that was granted in the prior round. The regulation provides that only if the Borough failed to implement the terms of the prior substantive certification may the Council reevaluate the vacant land adjustment. The Borough has fully implemented the prior substantive certification, has satisfied the RDP, and has followed through on the terms of the vacant land adjustment with reference to the unmet need. As a result, the Borough has the right to rely upon the terms of the prior approved vacant land adjustment.

Additionally, N.J.A.C. 5:97-2.4 only excludes from the growth share calculation market rate and affordable units which received credit in a first or second round certified plan which have been or are projected to be constructed after January 1, 2004. The Linde site was not included in the prior round certified plan, and any development on that site would, therefore, be included in the growth share calculation. If the Linde site is to develop or redevelop, the Borough would incur a growth share obligation based upon that development, and would look to satisfy the obligation created either on the site or in another manner.

There is also a valid planning reason not to include the site as an affordable housing site. It is located at the gateway to the corporate center office and research development zone district, which is an area that provides jobs for the entire region. Without the existence or creation of jobs there is little reason to provide for affordable housing. While we recognize the current recession is not conducive to job production, planning decisions should transcend the current economic downturn. The Borough believes that it is vitally important to maintain the future potential for job creation in this area of the municipality to serve not only the interests of Borough residents, but the entire region. The Borough has made great effort to satisfy its prior, present, and future affordable housing needs, and seeks to plan the balance of the municipality as it deems to be in the greatest public interest.

The second objection to the Borough Plan was from Kevin D. Walsh, Esq., on behalf of the Fair Share Housing Center, dated April 27, 2009. As this objection did not request that a specific site be included within the Fair Share Plan, further discussion of this objection is not relevant here.

During the preparation of this Plan existing lands were examined to identify the ones that would be most appropriate for the development of low and moderate income housing in the Borough of New Providence. The existing and planned infrastructure, land use patterns, demands for uses, municipal economic development policies and regulatory and environmental constraints were also analyzed. The results of the above referenced analysis indicates that the existing zoning and proposed programs for affordable housing projects included within this Plan are anticipated to provide adequate capacity to accommodate the residential and non-residential growth share of 187 units projected by COAH.

II. FAIR SHARE PLAN

A. Introduction

COAH's regulations, as set forth in N.J.A.C. 5:97-3, require that a "Fair Share Plan" set forth the mechanisms and funding sources by which a municipality proposes to address its affordable housing obligation. Additionally, COAH requires that the draft Fair Share Ordinances necessary to implement the Fair Share Plan be included within the Fair Share Plan report. This Fair Share Plan sets forth the mechanisms and funding sources that will be utilized to address the Borough's cumulative Round 1, 2 and 3 obligation. A completed COAH Petition Application is included within Appendix B. This Application has been included in accordance with COAH's regulations and provides detailed information about the Borough's Fair Share Plan. In addition, this Fair Share Plan provides a detailed explanation of the draft Fair Share Ordinances necessary to implement Plan, which are included within the attached Appendices. This Fair Share Plan will amend the Borough's existing Housing Plan Element and Fair Share Plan, which was adopted November 25, 2008.

The total cumulative affordable housing obligation consists of three components: the rehabilitation share, prior round obligation and the growth share component. The Borough prior round obligation is 135-units. This prior round obligation has been divided into a 54-unit RDP and an 81-unit unmet need in accordance with a Vacant Land Adjustment approved on June 5, 1989.

The growth share obligation estimated by COAH for the Borough is 187 units. However, the Borough proposes to utilize a phased approach to address its growth share, which is discussed in detail within a subsequent section of this Fair Share Plan. Each of the Borough obligations is depicted within Table 19 below.

Table 19 Summary of 1987-2018 Affordable Housing Obligation	
Rehabilitation Share as per COAH Regs: Appendix B	19
Prior Round Obligation as per COAH Regs: Appendix C	135
RDP	54
Unmet Need (Prior Round Obligation less RDP)	81
Total Growth Share Projection as per COAH Appendix F	187

B. Plan to Address the Prior Round Obligation

COAH assigned the Borough a prior round affordable housing obligation of 135 units. The 135-unit prior round obligation is divided into a 54-unit Realistic Development Potential (RDP) obligation and an 81-unit unmet need pursuant to the Vacant Land Adjustment (VLA) that was previously granted during Round 1 of COAH regulations. Table 20 below presents a summary of the Prior Round obligation.

Table 20 Prior Round Fair Share Plan	
Obligation	Units/Credits Required
Rehabilitation Obligation	19
Prior Round Obligation	135
RDP	54
Unmet Need	81

Plan to Address the 54-Unit RDP Obligation

The Borough proposes to maintain its previously approved Prior Round Plan to address its 54-unit RDP. This Plan includes a combination of prior cycle units, inclusionary developments, 100% affordable housing projects and alternative living arrangement facilities to address the RDP. All of the projects within this portion of the Plan have been completed and are occupied with low- and moderate-income households. Table 21 provides a summary of the Plan to satisfy the RDP. Additional information about this portion of the Plan is included within the COAH Petition Application within Appendix B of this Plan.

Table 21: Approved Prior Round Plan to Address 54-Unit RDP			
Prior Cycle Credits			
Our House Inc.	4	Alt. Living Arrangement	Completed 7/12/1982
Total	4	Units	-
Rental Component (Minimum 14 units)			
Villages at New Providence	10	Family Rental	Completed 7/31/1994
Villages at New Providence Rental Bonus	10		
Elizabeth Barabash Manor	16	Age-Restricted Rental (100% Aff.)	Completed 11/17/1997
Community Action Independent Living	4	Alt. Living Arrangement	Completed 6/9/1992
Community Action Independent Living Rental Bonus	4		
Total	44	Units	-
Owner-Occupied Inclusionary Projects			
Murray Hill Farms (Block 376, Lot 1)	4	Family	Completed 9/28/1994
Southgate at Murray Hill	2	Family	Completed 11/22/1995
Total	6	Units	-
Prior Round RDP Obligation Totals			
Obligation	54	Credits	-
Total Credits Provided	54	Credits	RDP Obligation Satisfied

Plan to Address the Unmet Need

As mentioned previously, the Borough proposes to maintain its previously approved Prior Round Plan to address its unmet need. This Plan includes six (6) inclusionary zoning sites, as summarized within Table 22. The Patriot Village and Spring Gardens developments have been constructed. Additionally, the Stonefields project was approved on August 14, 2007. The remaining three sites have inclusionary zoning in place to encourage the construction of affordable housing. Additional information about this portion of the Plan is included within the COAH Petition Application within Appendix B.

Table 22: Approved Prior Round Plan to Address Unmet Need			
Patriot Village	4	Family Rental	Completed 3/10/2006
Spring Gardens	6	Family Rental	Completed in 2008
Stonefields at New Providence	2	Family Sale	Approved 8/14/2007
Marion Avenue Site (JAM, Block 234, Lots 15, 17, 19, 20 & 27)	4	Inclusionary	Zoning in Place
Block 310, Lots 1 & 2	5	Inclusionary	Zoning in Place
Block 311, Lots 1, 2 & 3	5	Inclusionary	Zoning in Place

Summary of the Prior Round Plan

As demonstrated above, the RDP has been addressed through a combination of prior cycle units, inclusionary developments, 100% affordable housing projects and alternative living arrangement facilities. As all of the projects within this portion of the Plan have been completed and are occupied with low- and moderate-income households, the Borough has clearly demonstrated that its Prior Round Plan was effective in the production of affordable housing.

Additionally, the unmet need has been addressed through six (6) inclusionary zoning sites. Two of these sites have been developed with inclusionary projects. A third site has been approved for the development of an inclusionary project. The status of the plan to address the unmet need demonstrates that the Plan is effective in encouraging the production of affordable housing. Additionally, the implementation of both the RDP and unmet need portions of the Plan and the fact that the majority of the projects proposed have been completed and are occupied with low- and moderate-income households demonstrates that the Borough is committed to providing its share of affordable housing.

C. Proposed Plan for Growth Share Obligation

New Providence Borough proposes to address its growth share in two phases. Phase I includes the time period from January 1, 2004 through the Borough's first anticipated biennial review, which is estimated to occur on June 30, 2012. Phase II includes the time period from July 1, 2012 through December 31, 2018. The Borough is proposing this phased approach due to the uncertain nature of COAH's regulations at this time. The Borough intends to reassess its growth share obligation in early 2012 and, if necessary,

revise its Plan to address any additional unanticipated growth that has or is projected to occur.

The growth share obligation estimated for Phase I (January 1, 2004 through June 30, 2012) is 33 units. The 187-unit growth share estimated by COAH less these 33 units yields a difference of 154 units, which represents the growth share obligation contemplated by Phase II of this Plan. Table 23 provides a summary of this calculation.

Table 23: Growth Share Obligation Totals			
Obligation Based Upon COAH's Growth Share Projections for 1/1/04-12/31/18	187	Credits	-
Municipally Calculated Growth Share Obligation Through June 30, 2012 (Phase I)	33	Credits	-
Difference Between Municipal Calculation and COAH's Projections (Phase II)	154	Units	-
Total Units Proposed	187	Units	Obligation Satisfied

Plan to Address the Growth Share Anticipated to Accrue from January 1, 2004 through June 30, 2012 (Phase I)

The previously approved Fair Share Plan documents that the Borough has a substantial number of prior round credits that are permitted to be carried forward to address a portion of the growth share obligation. These credits include the six (6) prior round excess "age-restricted" affordable units in the Elizabeth Barabash Manor, 19 Special Needs units that were not previously credited to the Borough's prior round housing obligation, and nine (9) units from the Murray Hill Farms development.

The Borough has utilized most of the above referenced units and a proposed Market to Affordable Program to address the 33-unit growth share obligation anticipated to occur during January 1, 2004 through June 30, 2012. Table 24, presents a summary of the Plan to address the 33-unit Phase I obligation.

Table 24: Phase I Plan			
Project	Units	Unit Type	Status
Elizabeth Barabash Manor	6	Age-Restricted Rental (100% AHU)	Completed 11/17/1997
Market to Affordable Program	8	Family Rental	Proposed
Union County Arc 1	4	Special Needs - Group Home	Completed 11/14/2002
Community Access 1	6	Special Needs - Group Home	Completed 1/30/1998
Murray Hill Farms (Block 376, Lot 1)	9	Family	Completed 9/28/1994
Total	33	Credits	
Rental Unit Analysis			
Rental Unit Minimum	9	Units	
Proposed Rental Units	24	Units	
Age-Restricted Unit Analysis			
Age-Restricted Unit Maximum	8	Units	
Proposed Age-Restricted Units	6	Units	
Family Unit Analysis			
Family Unit Minimum*	17	Units	
Proposed Family Units	17	Units	
Growth Share Totals			
Municipally Calculated Growth Share Obligation Through June 30, 2012	33	Credits	
Total Credits Provided	33	Credits	Obligation Satisfied

Table 24 demonstrates that the Borough maintains sufficient affordable housing units to address its entire 33-unit Phase I growth share obligation without the need to claim any rental bonus credits. Additionally, the Plan to address the Phase I obligation provides 24 rental units, which greatly exceeds the 9-unit requirement. This Plan also provides 17 affordable family units, which satisfies the family unit obligation of 17 units. These 17 affordable family units are comprised of eight (8) units from the Proposed Market to Affordable Program and nine (9) units from the completed Murray Hill Farms development. More detailed information about the projects included within this portion of the Plan is included within the Petition Application included within Appendix B of this Plan.

Very Low-Income Units

BEI analyzed the Borough's Plan for compliance with the requirement that a minimum of 13 percent of the units within the growth share portion of the Plan be provided to very low-income households. The Borough's growth share obligation of 33 units multiplied by 0.13 yields a very low-income unit obligation of five (5) units.

The updated Plan includes a total of 10 very low-income units within two special needs projects known as the Union County Arc 1 Project (4 units), and the Community Access 1 project (6 units). These 10 units satisfy the entire 5-unit obligation and provide 5 surplus units.

Plan to Address the Growth Share COAH Anticipates may Accrue from July 1, 2012 Through December 31, 2018 (Phase II)

COAH has required the Borough to provide a Plan to address the 154-unit difference between the 33-unit Phase I growth share and COAH's projection of 187 growth share units. This Phase II Plan includes 14 alternative living arrangement units, 15 inclusionary zoning units and a total of 125-units from future 100% affordable housing projects to provide a Plan to fully satisfy the 154-unit growth share. It is important to note that the 14 alternative living arrangement units identified above are currently eligible for full COAH credit. Table 25 provides a summary of the projects proposed to address this growth share in the event that the growth corresponding to this it occurs during the July 1, 2012 through December 31, 2018 time period.

Table 25: Plan for Phase II			
Units that are Currently Eligible for Full COAH Credit			
Union County Arc 2	3	Alt. Living Arrangement	Completed 9/25/1996
Community Access 2	6	Alt. Living Arrangement	Completed 1/30/1998
Pending Group Home Addition - Arc of Union County (Block 102, Lot 24)	3	Alt. Living Arrangement	Pending
Pending Group Home Addition - Our House, Inc. (Block 111, Lot 29)	2	Alt. Living Arrangement	Pending
Total	14	Units	-
Proposed Future Affordable Housing Projects			
Block 222, Lots 1, 2, and 3	15	Units	Proposed
100% Affordable or Municipally Sponsored Housing Projects	125	Units	Proposed
Total	140	Units	-
Total Proposed	154	Units	-
Difference Between Municipal Calculation and COAH's Projections	154	Units	Obligation Satisfied

Within the 2009 Reexamination Report the Planning Board recommended that an overlay zone be considered over Block 222, Lots 1, 2, and 3 (12.35 acres) to permit the site to be developed with mixed-use development comprised of inclusionary housing and commercial uses. The inclusionary development proposed on this site is anticipated to yield 15 affordable units.

Additionally, the Borough proposes 125-units from 100% Affordable or Municipally Sponsored Housing Developments to satisfy a portion of the 154-unit growth share. As mentioned previously, the Borough intends to reassess its Plan in 2012 and address any growth share that has or is projected to occur above the 33-unit Phase I growth share obligation. Should growth share accrue above the 33-unit phase I obligation, the Borough will first apply the 14 eligible COAH credits identified above. The Borough would then apply any rental bonus credits that could be claimed from the projects addressing the 33-unit Phase I obligation and the 14 units identified above. The Borough would also apply any affordable housing units and bonus credits realized from the inclusionary development proposed on Block 222, Lots 1, 2 and 3. Should these units and credits be insufficient to address the growth share that has or is estimated to occur in 2012, then the Borough would consider selecting one or more sites to construct 100% affordable housing developments upon in order to address the growth share.

The sum of the 14 eligible alternative living arrangement units, 15 inclusionary zoning units and 125 units from one or more 100% Affordable or Municipally Sponsored Housing Developments yield a total of 154 affordable housing units, which fully satisfies the 154 unit growth share contemplated within Phase II. More detailed information about the projects included within this portion of the Plan is included within the Petition Application included within Appendix B of this Plan.

The sum of the 33-units proposed to address Phase I and the 154 units proposed to address Phase II yields a total of 187 affordable housing units, which fully satisfies the 187-unit growth share calculated based upon COAH's projections. Therefore, the Borough has provided a Plan to address the entire 187-unit growth share calculated by COAH in accordance with COAH's regulations.

It is important to note that no bonus credits are claimed within Phase I and II of this Plan. However, the Borough reserves the right to claim bonus credits in accordance with applicable affordable housing regulations in the future.

Plan to Address the Rehabilitation Component

The third round regulations have established a rehabilitation obligation of 19 units for the Borough. However, as two (2) rehabilitation units were completed in 2003, the outstanding rehabilitation obligation has been reduced to 17 units. The two (2) completed rehabilitated units were funded by the Union County Multi-Jurisdictional Rehabilitation Program. Both rehabilitated units are in the Murray Hill Farms development, i.e., one of two deed-restricted developments that the Plan targets for rehabilitation assistance and are COAH-compliant deed-restricted units with thirty-year control periods. It is the present intention of the Borough to target housing deficiencies in existing deed-restricted owner-occupied and renter-occupied low- and moderate-income housing located within the Borough of New Providence. Existing deed restrictions on both the owner-occupied and renter-occupied units will insure that continued occupancy and re-sale of units would be affordable for future owners and renters during the required ten-year period of affordability.

Prior to the COAH Substantive Certification of the Borough's Plan and Petition, the Borough will submit to COAH a Resolution or executed contract designating an experienced Administrative Agent, in accordance with N.J.A.C. 5:96-18, together with a draft or adopted Housing Rehabilitation Operating Manual in a form acceptable to COAH, which will include a description of the program procedures and administrative procedures, including sample deed restrictions and/or lien.

The Borough anticipates that existing funds available in the Affordable Housing Trust and additional funding available through the development fees shall be utilized to address the rehabilitation obligation.

Development Fee Ordinance

Residential development fees are paid in association with the residential development process to aid in the provisions of affordable housing. The New Jersey Supreme Court, in Holmdel Builder's Association v. Holmdel Township, 121 N.J. 550 issued on December 13, 1990, determined that mandatory development fees are both statutorily and constitutionally permitted. However, a municipality may only impose and collect development fees if the municipality has received judicial or administrative approval of its development fee ordinance. Development fees may be used to support virtually any activity designed to implement a Fair Share Plan. Pursuant to N.J.A.C. 5:97-8.3 within the third round substantive rules, development fees are permitted at a maximum of one and one-half percent of the equalized assessed value of each unit in a residential development and, when an increase in density is involved pursuant to a "d" variance, the fee is a maximum of six percent of the equalized assessed value of each additional unit. Non-residential developments that do not meet the criteria for the current moratorium on non-residential development fees are subject to a non-residential development fee assessed at a rate of two and one-half percent of the equalized assessed value of the development in accordance with Affordable Housing Reform Statute, P.L. 2008, c.46, which became effective on July 17, 2008.

The Borough's existing Development Fee Ordinance was approved by COAH on October 8, 2008. The required fees are deposited into the Housing Trust Fund and utilized to implement the Borough's Fair Share Plan in accordance with COAH rules. A copy of the Development Fee Ordinance is included within Appendix G of this Plan. This Ordinance was prepared in compliance with all of the applicable provisions of COAH's current regulations and Affordable Housing Reform Statute, P.L. 2008, c.46.

Spending Plan

The Borough of New Providence has prepared a draft spending plan in accordance with N.J.A.C. 5:97-8.10. The Draft Spending Plan, included within Appendix H, demonstrates how the Borough intends to defray the costs associated with the provision of affordable housing by adopting the various mechanisms to address the rehabilitation obligation and the Market to Affordable Program. Additionally, the Draft Spending Plan reflects the expenditures requested and approved by COAH (COAH Docket Number 09-2169) to

assist in the creation of the Arc of Union County Group Home (Block 102, Lot 24) and the proposed addition to expand the Our House, Inc. Group Home (Block 111, Lot 29).

The Borough proposes to apply to the State of New Jersey Affordable Housing Trust Fund to supplement a projected revenue shortfall in the Borough's Housing Trust Fund. As of July 17, 2008, New Providence Borough has collected \$ 349,379.31, expended \$125,748.91, resulting in a balance of \$ 223,630.40. The Draft Spending Plan and Draft Escrow Agreement are included within Appendix H and I, respectively.

The Borough maintains an adopted Resolution of Intent to Bond (Resolution No. 2006-258). However, the Borough and its consultants are currently in the process of preparing and adopting an updated Resolution of Intent to Bond to reflect the 100% affordable municipally sponsored project proposed within this Plan. The proposed new Resolution of Intent to Bond will be provided to COAH under separate cover upon adoption.

The draft Affordable Housing Ordinance is included within Appendix J of this Plan. These documents demonstrate the financial feasibility of implementing all of the projects and mechanisms proposed within this Plan.

Summary of the Proposed Plan to Address the Growth Share

The Borough proposes to maintain its previously approved Prior Round Plan to address its 54-unit RDP and its unmet need. This Plan includes a combination of prior cycle units, inclusionary developments, 100% affordable housing projects and alternative living arrangement facilities to address these obligations.

The Borough proposes to address the 187-unit growth share calculated by COAH in two phases comprised of a 33-unit obligation for the time period from January 1, 2004 through June 30, 2012 (Phase I) and a 154-unit component for the time period from July 1, 2012 through December 31, 2018 (Phase II). The Borough is proposing this phased approach due to the current uncertain nature of COAH regulations. The Borough intends to reassess its growth share obligation in early 2012 and, if necessary, revise its Plan to address any additional unanticipated growth that has or is projected to occur.

The Borough proposes to utilize a Market to Affordable Program and units carried over from the previously approved Fair Share Plan to address the 33-unit Phase I growth share obligation. As COAH has required the Borough to provide a Plan to address the 154-unit difference between the 33-unit Phase I growth share and COAH's projection of 187 growth share units, the Borough has proposed to utilize 14 alternative living arrangement units that are currently eligible for full COAH credit, 15 proposed inclusionary zoning units and a total of 125 proposed units from future 100% affordable housing projects. The sum of these existing and proposed units fully addresses the 187-unit growth share calculated based upon COAH's data for the 2004-2018 time period.

In addition, a 17-unit rehab program will target housing deficiencies in existing deed-restricted owner-occupied and renter-occupied low- and moderate-income housing located within the Borough of New Providence. Existing deed restrictions on both the

owner-occupied and renter-occupied units will insure that continued occupancy and re-sale of units would be affordable for future owners and renters during the required ten-year period of affordability.

D. Summary of the Fair Share Plan

The strategies, funding sources and implementation measures described above will be utilized to implement the Fair Share Plan and provide an effective means of providing affordable housing within the Borough of New Providence. As demonstrated above, the Fair Share Plan satisfies all applicable sections of COAH's Round 1, 2 and 3 affordable housing regulations and the Affordable Housing Reform Statute, P.L. 2008, c.46.

With regard to the Prior Round Plan, the RDP has been addressed through a combination of prior cycle units, inclusionary developments, 100% affordable housing projects and alternative living arrangement facilities. All of the projects within this portion of the Plan have been completed and are occupied with low- and moderate-income households, which underscores the effectiveness of the Borough's Plan and the commitment of the Borough to implement its Plan. Additionally, the unmet need has been addressed through six (6) inclusionary zoning sites. Two of these sites have been developed with inclusionary projects and a third site has been approved for the development of an inclusionary project.

With regard to the Plan to address the Borough's growth share, the Borough proposes to address the 187-unit growth share calculated by COAH in two phases. These phases are comprised of a 33-unit obligation for the time period from January 1, 2004 through June 30, 2012 (Phase I) and a 154-unit component for the time period from July 1, 2012 through December 31, 2018 (Phase II). The Borough intends to reevaluate its growth share in early 2012 and, if required, amend its Plan to address any unanticipated growth that has or is projected to occur.

The 33-unit Phase I growth share obligation is proposed to be addressed through an 8-unit Market to Affordable Program and 25 units carried over from the previously approved Fair Share Plan. The 154-unit Phase II component is proposed to be addressed through 14 alternative living arrangement units that are currently eligible for full COAH credit, 15 proposed inclusionary zoning units and a total of 125 proposed units from future 100% affordable housing projects. The sum of these existing and proposed units fully satisfies the 187-unit growth share calculated based upon COAH's projections for the 2004-2018 time period.

The Borough has a rehabilitation obligation of 17 units as demonstrated in this Plan. The original COAH rehabilitation number of 19 units has been reduced by two units, as New Providence identified 2 existing rehabilitation units completed by Union County. The Borough anticipates that funding obtained through the development fees shall be utilized to address the rehabilitation obligation and additional funds will be sought from the State of New Jersey Affordable Housing Trust Fund to supplement the projected locally generated development fee revenue.

III

APPENDICES



APPENDIX A

COAH WORKBOOKS A & B

Workbook B:
Summary of Growth Share Determination Using Municipal Projections

Municipality Name: New Providence

(Note: Municipalities seeking a lower growth projection based on the lack of available land may not use Workbook B. Rather, these municipalities must use Workbook C.)

[CLICK HERE to go to Workbook C](#)

This workbook contains two separate worksheets to be used for determining the projected Municipal Growth Share Obligation. Worksheet A must be completed by all municipalities. Worksheet A is the tool that allows the user to enter COAH-generated Growth Projections included in Appendix F(2) of the revised Third Round Rules to determine the Growth Share Obligation after applying exclusions permitted by N.J.A.C. 5:97-2.4. Municipalities that accept the COAH-generated Growth projections need only use Worksheet A.

[Click Here to complete Worksheet A](#)

Municipalities anticipating that growth through 2018 is likely to exceed the growth through 2018 that has been projected by COAH should complete Worksheet A and Worksheet B. Worksheet A establishes a projected Growth Share Obligation based on COAH-generated growth projections against which the municipally determined Growth Share Obligation will be compared. Municipal alternative growth projections that exceed COAH projections would be used if the municipality anticipates growth higher than what COAH has projected and seeks to plan accordingly.

[Click Here to complete Worksheet B](#)

Summary Of Worksheet Comparison

COAH Projected Growth Share	COAH Projected Growth Share (From Worksheet A)	Municipally Projected Growth Share (From Worksheet B)
Residential Growth	360	202
Residential Exclusions	70	70
Net Residential Growth	290	132
Residential Growth Share	58.00	26.40
Non-Residential Growth	1,845	106
Non-Residential Exclusions	0	0
Net Non- Residential Growth	1,845	106
Non-Residential Growth Share	115.31	6.60
Total Growth Share	173	33

Municipal Projection does not exceed the COAH-projected Growth Share Obligation. Please Use Worksheet A and the COAH growth Projections in Appendix F2.

Worksheet B

Growth Share Determination Using Municipal Projections

Municipality Name:

New Providence

Actual Growth 01/01/04 to Present

Residential COs Issued

80

Qualified Residential Demolitions

[Get Certification Form](#)

Note: To qualify as an offsetting residential demolition, the unit must be the primary residence of the household for which the demolition permit has been issued, it had to be occupied by that owner for at least one year prior to the issuance of the demolition permit demolition, it has to continue to be occupied by that household after the re-build and there can be no change in use associated with the property. (See N.J.A.C. 5:97-2.5(a)1 v.) A Certification Form must be completed and submitted for each qualifying demolition.

Non-residential CO's by Use Group	Square Feet Added (COs Issued)	Square Feet Lost Demolition Permits Issued)	Jobs/1,000 SF	Total Jobs
B	9,800		2.8	27.44
M	4,484		1.7	7.62
F	0		1.2	0.00
S	0		1.0	0.00
H	0		1.6	0.00
A1	0		1.6	0.00
A2	0		3.2	0.00
A3	3,838		1.6	6.14
A4	0		3.4	0.00
A5	0		2.6	0.00
E	0		0.0	0.00
I	0		2.6	0.00
R1			1.7	0.00
Total	18,122	0		41.20

Projected Growth through 12/31/18 not included in actual above

Pending Residential Approvals

Known Residential Development Applications

Additional Projected Residential Growth through 2018

102

20

Pending, Known and Anticipated
Non-Residential Growth by Use
Group

	Square Feet Projected to be built	Square Feet Projected to be Demolished	Jobs/1,000 SF	Total Jobs
B	3,669		2.8	10.27
M	24,150		1.7	41.06
F			1.2	0.00
S			1.0	0.00
H			1.6	0.00
A1			1.6	0.00
A2	4,100		3.2	13.12
A3			1.6	0.00
E			0.0	0.00

I			2.6	0.00
R1			1.7	0.00
Total	31,919	0		64

	Residential	Non-Residential
Total Municipal Projections From Above	202	106
Subtract the following Residential Exclusions pursuant to 5:97-2.4(a) from Worksheet A	If you have not yet completed Worksheet A, Please click here to do so before continuing with Worksheet B.	
COs for prior round affordable units built or projected to be built post 1/1/04		
Inclusionary Development	16	
Alternative Living Arrangements	0	
Accessory Apartments	0	
Municipally Sponsored or 100% Affordable	0	
Assisted Living	0	
Other	0	
Market Units in Prior Round Inclusionary development built post 1/1/04	54	
Non-Residential Exclusions Pursuant to 5:97-2.4(b)		
Affordable units	0	
Associated Jobs		0
Net Growth Projection	132	106
Projected Growth Share Divide Residential Growth by 5 and Jobs by 16	26.40 Affordable Units	6.60 Affordable Units

Total Projected Growth Share Obligation 33.00 Affordable Units

[Click Here to return to Workbook B Summary sheet](#)

Worksheet A: Growth Share Determination Using Published Data
(From Appendix F(2), *Allocating Growth To Municipalities*)

COAH Growth Projections	
Must be used in all submissions	

Municipality Name: New Providence

Enter the COAH generated growth projections from Appendix F(2) found at the back of N.J.A.C. 5:97-1 et seq. on Line 1 of this worksheet. Use the Tab at the bottom of this page or the links within the page to toggle to the exclusions portion of this worksheet. After entering all relevant exclusions, toggle back to this page to view the growth share obligation that has been calculated based on COAH's growth projections.

	Residential	Non-Residential
1 Enter Growth Projections From Appendix F(2)*	360	1,845
2 Subtract the following Residential Exclusions pursuant to 5:97-2.4(a) from "Exclusions" tab	Click Here to enter Prior Round Exclusions	
COs for prior round affordable units built or projected to be built post 1/1/04		
Inclusionary Development	16	
Supportive/Special Needs	0	
Accessory Apartments	0	
Municipally Sponsored	0	
or 100% Affordable	0	
Assisted Living	0	
Other	0	
Market Units in Prior Round Inclusionary development built post 1/1/04	54	
Subtract the following Non-Residential Exclusions Pursuant to 5:97-2.4(b)		
Affordable units	0	
Associated Jobs		0
3 Net Growth Projection	290	1,845
4 Projected Growth Share (Conversion to Affordable Units)	58.00 Affordable Units	115.31 Affordable Units
Divide HH by 5 and Jobs by 16)		
5 Total Projected Growth Share Obligation		173 Affordable Units

[Click Here to return to Workbook B Summary](#)

* Use Appendix F(2), Figure A.1, Housing Units by Municipality for Residential growth and Appendix F(2), Figure A.2, Employment by Municipality for Non-residential growth.

Affordable and Market-Rate Units Excluded from Growth

Municipality Name: **New Providence**

Prior Round Affordable Units NOT included in Inclusionary Developments Built post 1/1/04

Development Type	Number of COs Issued and/or Projected
-------------------------	--

Supportive/Special Needs Housing
 Accessory Apartments
 Municipally Sponsored and 100% Affordable
 Assisted Living
 Other

Total **0**

Market and Affordable Units in Prior Round Inclusionary Development

Built post 1/1/04

N.J.A.C. 5:97-2.4(a)

(Enter Y for yes in Rental column if rental units resulted from N.J.A.C. 5:93-5.15(c)5 incentives)

Development Name	Rental? Y/N	Total Units	Market Units	Affordable Units	Market Units Excluded
Spring Garden Apartments (27)	N	27	21	6	21
Stonefields (9)	N	9	7	2	7
Marion Site (16)	N	16	12	4	12
Patriot Village (18)	N	18	14	4	14
		0			0
Total		70	54	16	54

Jobs and Affordable Units Built as a result of post 1/1/04 Non-Residential Development

N.J.A.C. 5:97-2.4(b)

Development Name	Affordable Units Provided	Permitted Jobs Exclusion
		0
		0
		0
		0
Total	0	0

When finished, click here to return to Worksheet A

Development Name	Units	Available Units	Market Units
Spring Creek Apartments (23)	10	10	10
Chancellor (2)	10	10	10
Marion Ellis (2)	10	10	10
Patrol Village (15)	10	10	10
Total	40	40	40

APPENDIX B

COAH PETITION APPLICATION FORM



STATE OF NEW JERSEY
DEPARTMENT OF COMMUNITY AFFAIRS
COUNCIL ON AFFORDABLE HOUSING
PETITION APPLICATION



This application is a guideline for creating a Housing Element and Fair Share Plan. A completed version of this application must be submitted as part of your petition for substantive certification to COAH. This application will be used by COAH staff to expedite review of your petition. This application can serve as your municipality's Fair Share Plan. A brief narrative component of the Fair Share Plan should be included with this application and can serve primarily to supplement the information included in the application form. Additionally, the narrative section of the Fair Share plan would include a description of any waivers being requested.

This form reflects COAH's newly adopted procedural and substantive rules and the amendments to those rules adopted on September 22, 2008. Footnotes and links to some helpful data sources may be found at the end of each section. To use this document electronically, use the TAB KEY to navigate from field to field. Enter data or use the Right Mouse Button to check boxes.

MUNICIPALITY	Borough Of New Providence	COUNTY PLANNING AREA(S)	Union
COAH REGION	2		PA-1
SPECIAL RESOURCE AREA(S)			
PREPARER NAME	Vito Gallo & Jeff Janota	TITLE	COAH Planners
EMAIL	Vitogallo@Comcast.Net & Jjanota@Birdtail.Com	PHONE NO.	(908) 418-3732 & 732-350-1700
ADDRESS	611 Industrial Way West Eatontown, Nj	FAX NO.	
MUNICIPAL HOUSING LIAISON	Keith Lynch	TITLE	
EMAIL	Keith.Lynch@Newprov.Org	PHONE NO.	
ADDRESS		FAX NO.	

Enter the date(s) that COAH granted Substantive Certification or that the Court granted a Judgment of Compliance (JOC) on the Housing Element and Fair Share Plan.

History of Approvals	COAH	JOC	N/A
First Round	9/18/1989		<input type="checkbox"/>
Second Round	8/5/1998		<input type="checkbox"/>
Extended Second Round	5/11/2005		<input type="checkbox"/>

Does the Petition include any requests for a waiver from COAH Rules? ☐ Yes ☒ No
If Yes, Please note rule section from which waiver is sought and describe further in a narrative section: _____

FILING/PETITION DOCUMENTS (N.J.A.C. 5:96-2.2/3.2 & N.J.A.C. 5:97-2.3/3.2)

All of the following documents must be submitted in order for your petition to be considered complete. Some documents may be on file with COAH. Please denote by marking the appropriate box if a document is attached to the Housing Element and Fair Share Plan or if you are using a document on file with COAH from your previous third round submittal to support this petition. Shaded areas signify items that must be submitted anew.

Included	On File	Required Documentation/Information
<input checked="" type="checkbox"/>		Certified Planning Board Resolution adopting or amending the Housing Element & Fair Share Plan
<input checked="" type="checkbox"/>		Certified Governing Body Resolution endorsing an adopted Housing Element & Fair Share Plan and either (check appropriate box): <input type="checkbox"/> Petitioning <input type="checkbox"/> Filing <input checked="" type="checkbox"/> Re-petitioning <input type="checkbox"/> Amending Certified Plan
<input checked="" type="checkbox"/>		Service List (in the new format required by COAH)
<input checked="" type="checkbox"/>		Adopted Housing Element & Fair Share Plan narrative (including draft and/or adopted ordinances necessary to implement the Plan)
<input checked="" type="checkbox"/> <input type="checkbox"/> N/A		If applicable, Implementation Schedule(s) with detailed timetable for the creation of units and for the submittal of all information and documentation required by N.J.A.C. 5:97-3.2(a)4
<input type="checkbox"/> <input checked="" type="checkbox"/> N/A	<input type="checkbox"/>	If applicable, Litigation Docket No., OAL Docket No., Settlement Agreement and Judgment of Compliance or Court Master's Report
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Municipal Master Plan (most recently adopted; if less than three years old, the immediately preceding, adopted Master Plan)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Municipal Zoning Ordinance (most recently adopted) Date of Last Amendment: <u>6/27/2007</u> Date of Submission to COAH: <u>12/30/2008</u>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Municipal Tax Maps (most up-to-date, electronic if available) Date of Last Revision: <u>6/20/08</u> Date of Submission to COAH: <u>12/30/08</u>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Other documentation pertaining to the review of the adopted Housing Element & Fair Share Plan(list):

FOR OFFICE USE ONLY

Date Received _____ Affidavit of Public Notice _____ Date Deemed _____
Complete/Incomplete _____ Reviewer's Initials _____

¹ Pursuant to N.J.S.A. N.J.S.A. 52:27D-307, as amended by PL 2008 c.46, any residential development resulting from a zoning change made to a previously non-residentially-zoned property, where the change in zoning precedes or follows the application for residential development by no more than 24 months, shall require that a percentage be reserved for occupancy by low or moderate income households.

HOUSING ELEMENT

(N.J.A.C. 5:97-2 & N.J.S.A. 40:55D-1 et seq.)

The following issues and items must be addressed in the Housing Element for completeness review. Where applicable, provide the page number(s) on which each issue and/or item is addressed within the narrative Housing Element.

1. The plan includes an inventory of the municipality's housing stock by¹:

- ☒ Age;
- ☒ Condition;
- ☒ Purchase or rental value;
- ☒ Occupancy characteristics; and
- ☒ Housing type, including the number of units affordable to low and moderate income households and substandard housing capable of being rehabilitated.

☒ Yes, Page Number: 5 ☐ No (incomplete)

2. The plan provides an analysis of the municipality's demographic characteristics, including, but not necessarily limited to²:

- ☒ Population trends;
- ☒ Household size and type;
- ☒ Age characteristics;
- ☒ Income level;
- ☒ Employment status of residents;

☒ Yes, Page Number: 11 ☐ No (incomplete)

3. The plan provides an analysis of existing and future employment characteristics of the municipality, including but not limited to³:

- ☒ Most recently available in-place employment by industry sectors and number of persons employed;
- ☒ Most recently available employment trends; and
- ☒ Employment outlook.

☒ Yes, Page Number: 13 ☐ No (incomplete)

4. The plan includes a determination of the municipality's present and prospective fair share for low and moderate income housing and an analysis of how existing or proposed changes in zoning will provide adequate capacity to accommodate residential and non-residential growth projections. AND

The analysis covers the following:

- ☒ The availability of existing and planned infrastructure;
- ☒ The anticipated demand for the types of uses permitted by zoning based on present and anticipated future demographic characteristics of the municipality;
- ☒ Anticipated land use patterns;
- ☒ Municipal economic development policies;
- ☒ Constraints on development including State and Federal regulations, land ownership patterns, presence of incompatible land uses or sites needing remediation and environmental constraints; and
- ☒ Existing or planned measures to address these constraints.

☒ Yes, Page Number: 19 ☐ No (incomplete)

5. The plan includes a consideration of lands that are most appropriate for construction of low and moderate income housing and of the existing structures most appropriate for conversion to, or rehabilitation for, low and moderate income housing, including a consideration of lands of developers who have expressed a commitment to provide low and moderate income housing.

☒ Yes, Page Number: 19 ☐ No (incomplete)

6. The plan relies on household and employment projections for the municipality as provided in Appendix F of COAH's rules (if yes check the yes box below and check no in lines 6a-8).

☒ Yes, Page Number: _____ ☐ No (go to 6a)

- 6a. The Plan relies on higher household and employment projections for the municipality as permitted under N.J.A.C. 5:97-2.3(d) (optional - see Fair Share Plan section starting on page 7 of this application).

☐ Yes (go to 7 and 8) ☒ No (go to 6b)

- 6b. The Plan relies on a request for a downward adjustment to household and employment projections for the municipality as provided in N.J.A.C. 5:97-5.6 (optional - see Fair Share Plan section starting on page 7 of this application).

☐ Yes, Page Number: 17 ☒ No

7. If the municipality anticipates higher household projections than provided by COAH in Appendix F, the plan projects the municipality's probable future construction of housing for fifteen years covering the period January 1, 2004 through December 31, 2018 using the following minimum information for residential development:

- ☐ Number of units for which certificates of occupancy were issued since January 1, 2004;
- ☐ Pending, approved and anticipated applications for development;
- ☐ Historical trends, of at least the past 10 years, which includes certificates of occupancy issued; and
- ☐ The worksheet for determining a higher residential growth projection provided by COAH. (Worksheets are available at www.nj.gov/dca/coah/planningtools/gscalculators.shtml)

☐ Yes, Page Number: _____

☐ No (incomplete)

☒ Not applicable (municipality accepts COAH's projections)

8. If the municipality anticipates higher employment projections than provided by COAH in Appendix F, the plan projects the probable future jobs based on the use groups outlined in Appendix D for fifteen years covering the period January 1, 2004 through December 31, 2018 for the municipality using the following minimum information for non-residential development:

- ☐ Square footage of new or expanded non-residential development authorized by certificates of occupancy issued since January 1, 2004;
- ☐ Square footage of pending, approved and anticipated applications for development;
- ☐ Historical trends, of at least the past 10 years, which shall include square footage authorized by certificates of occupancy issued;
- ☐ Demolition permits issued and projected for previously occupied non-residential space; and
- ☐ The worksheet for determining a higher non-residential growth projection provided by COAH.

☐ Yes, Page Number: _____

☐ No (incomplete)

☒ Not applicable (municipality accepts COAH's projections)

9. The plan addresses the municipality's :

- ☒ Rehabilitation share (from Appendix B);
- ☒ Prior round obligation (from Appendix C); and
- ☒ Projected growth share in accordance with the procedures in N.J.A.C. 5:97-2.4.

☒ Yes, Page Number: 23 ☐ No (incomplete).

10. If applicable, the plan includes status of the municipality's application for plan endorsement from the State Planning Commission.

☐ Yes, Page Number: _____ ☐ No (incomplete) ☒ Not Applicable

Petition date: _____ Endorsement date: _____

¹ Information available through the U.S. Census Bureau at

http://factfinder.census.gov/servlet/ACSSAFFHousing?_ss=on&_submenuld=housing_0

² Information available through the U.S. Census Bureau at <http://factfinder.census.gov/home/saff/main.html>.

³ Information available through the New Jersey Department of labor at

<http://www.wuipin.net/OneStopCareerCenter/LaborMarketInformation/Imil4/index.html>

FAIR SHARE PLAN (N.J.A.C. 5:97-3)

Please provide a summary of the Fair Share Plan by filling out all requested information. Enter N/A where the information requested does not apply to the municipality. A fully completed application may serve as the actual Fair Share Plan. A brief narrative should be attached to supplement the information included in the application form. Additionally, the narrative section of the Fair Share plan would fully describe, under a separate heading, any waivers that are being requested.

Determining the 1987-2018 Fair Share Obligation

The following tables will assist you in determining your overall 1987-2018 fair share obligation. For each cycle of the affordable housing need and rehabilitation share, please use the "need" column to enter the number of units addressed in the municipal petition. Where the municipality has received and/or is proposing any adjustments to its rehabilitation share, prior round and/or growth share obligation, use the footnotes providing rule references and follow the procedures for determining the municipal need and/or for calculating any adjustments applicable to the municipality. Enter the affordable housing need as provided by COAH or that results from the adjustment under the "Need" column.

Line		Need
1	<input type="radio"/> Rehabilitation Share (from N.J.A.C. 5:97 Appendix B) OR	19
2	<input type="radio"/> Optional Municipally Determined Rehabilitation Share (If a municipally determined rehabilitation share is being used, attach the survey results as an exhibit to this application and indicate that it is attached as Exhibit _____.)	0
		Need
3	<input type="radio"/> Prior Round (1987-1999) Affordable Housing Obligation (From N.J.A.C. 5:97 Appendix C)	135
	<input type="radio"/> Prior Round Adjustments:	
	<input type="radio"/> 20% Cap Adjustment	0
	<input type="radio"/> 1000 Unit Cap Adjustment	0
4	Total Prior Round Adjustments	N.A.
5	Adjusted Prior Round Obligation: (Number in Appendix C minus Total Prior Round Adjustment(s))	
	<input type="radio"/> Prior Round Vacant Land Adjustment (Unmet Need)	81
6	Realistic Development Potential(RDP) ¹	54

¹ RDP = Adjusted Prior Round Obligation minus Vacant Land Adjustment

Determining the Growth Share Obligation

All municipalities must complete the "COAH projections" table below. Only municipalities that anticipate higher projections or that are seeking a growth projection adjustment based on a demonstration that insufficient land capacity exists to accommodate COAH projections need complete the corresponding additional table. COAH has published three workbooks in Excel format to assist with preparing this analysis. All municipalities must complete Workbook A. Workbook B must be used when the municipality anticipates that its growth through 2018 is likely to exceed the growth through 2018 that has been projected by COAH and the municipality wants to plan accordingly. Workbook C must be used by municipalities seeking a downward adjustment to the COAH-generated growth projections based on an analysis of municipal land capacity. Workbooks may be found at the following web location:

www.nj.gov/dca/coah/planningtools/escalators.shtml.

The applicable workbook has been completed and is attach to this application as Exhibit A.

<i>○ Required 2004-2018 COAH Projections and Resulting Projected Growth Share</i>			
Line			
	Household Growth	360	Employment Growth
	(From Appendix F)		(From Appendix F)
	Household Growth After	290	Employment Growth After
	Exclusions (From Workbook A)		Exclusions (From Workbook A)
	Residential Obligation	58.00	Non-Residential Obligation
	(From Workbook A)		(From Workbook A)
7	Total 2004-2018 Growth Share Obligation		173.00
<i>○ Optional 2004-2018 Municipal Projections Resulting in Higher Projected Growth Share</i>			
	Household Growth After		Employment Growth After
	Exclusions (From Workbook B)		Exclusions (From Workbook B)
	Residential Obligation		Non-Residential Obligation
	(From Workbook B)		(From Workbook B)
8	Total 2004-2018 Projected Growth Share Obligation		0.00
<i>○ Optional Municipal Adjustment to 2004-2018 Projections and Resulting Lower Projected Growth Share</i>			
	Household Growth After		Employment Growth After
	Exclusions (From Workbook C)		Exclusions (From Workbook C)
	Residential Obligation		Non-Residential Obligation
	(From Workbook C)		(From Workbook C)
9	Total 2004-2018 Growth Share Obligation		
10	Total Fair Share Obligation (Line 1 or 2 + Line 5 or 6 + Line 7, 8 or 9)		260.00

Summary of Plan for Total 1987-2018 Fair Share Obligation

(For each mechanism, provide a description in the Fair Share Plan narrative. In the table below, specify the number of completed or proposed units associated with each mechanism.)

	<u>Completed</u>	<u>Proposed</u>	<u>Total</u>
Rehabilitation Share			<u>19</u>
Less: Rehabilitation Credits			<u>2</u>
Rehab Program(s)		<u>19</u>	<u>17</u>
Remaining Rehabilitation Share			<u>17</u>
Prior Round (1987-1999 New Construction) Obligation			<u>135</u>
Less: Vacant Land Adjustment (If Applicable)			
(Enter unmet need as the adjustment amount. Unmet need = Prior round obligation minus RDP):			<u>135</u>
Unmet Need			<u>81</u>
RDP	<u>54</u>		<u>54</u>
Mechanisms addressing Prior Round			
Prior Cycle Credits (1980 to 1986)			<u>4</u>
Credits without Controls			
Inclusionary Development/Redevelopment	<u>16</u>		<u>16</u>
100% Affordable Units	<u>16</u>		<u>16</u>
Accessory Apartments			
Market-to-Affordable			
Supportive & Special Needs	<u>4</u>		<u>4</u>
Assisted Living			
RCA Units previously approved			
Other			
Prior Round Bonuses	<u>14</u>		<u>14</u>
Remaining Prior Round Obligation			<u>0</u>
Third Round Projected Growth Share Obligation			<u>187</u>
Less: Mechanisms addressing Growth Share			
Inclusionary Zoning	<u>9</u>	<u>15</u>	<u>24</u>
Redevelopment			
100% Affordable Development	<u>6</u>	<u>125</u>	<u>129</u>
Accessory Apartments			
Market-to-Affordable Units		<u>8</u>	<u>8</u>
Supportive & Special Need Units	<u>19</u>	<u>5</u>	<u>26</u>
Assisted Living: post-1986 Units			
Other Credits			
Compliance Bonuses			
Smart Growth Bonuses			
Redevelopment Bonuses			
Rental Bonuses			
Growth Share Total	<u>34</u>	<u>153</u>	<u>187</u>
Remaining (Obligation) or Surplus			<u>0</u>

PARAMETERS¹

Prior Round 1987-1999			
RCA Maximum	67	RCAs Included	0
Age-Restricted Maximum	33	Age-Restricted Units Included	16
Rental Minimum	14	Rental Units Included	30

Growth Share 1999-2018			
Age-Restricted Maximum	8	Age-Restricted Units Included	6
Rental Minimum	9	Rental Units Included	24
Family Minimum	17	Family Units Included	17
Very Low-Income Minimum ²	5	Very Low-Income Units Included	10

¹ Pursuant to the procedures in N.J.A.C. 5:97-3.10-3.12

² Pursuant to N.J.S.A. 52:27D-329.1, adopted on July 17, 2008, at least 13 percent of the housing units made available for occupancy by low-income and moderate income households must be reserved for occupancy by very low income households.

Summary of Built and Proposed Affordable Housing

Provide the information requested regarding the proposed program(s), project(s) and/or unit(s) in the Fair Share Plan. Use a separate line to specify any bonus associated with any program, project and/or unit in the Plan. As part of completeness review, all monitoring forms must be up-to-date (i.e. 2007 monitoring must have been submitted previously or included with this application) and all proposed options for addressing the affordable housing obligation must be accompanied by the applicable checklist(s) (found as appendices to this application). Enter whether a project is proposed or completed and attach the appropriate form or checklist for each mechanism as appendices to the plan. Please note that bonuses requested for the prior round must have been occupied after December 15, 1986 and after June 6, 1999 for the third round.

Please make sure that a corresponding mechanism checklist is submitted for each mechanism being employed to achieve compliance. Separate checklists for each mechanism are available on the COAH website at www.nj.gov/dca/coah/planningtools/checklists.shtml.

Table 1. Projects and/or units addressing the Rehabilitation Share

Project/Program Name	Proposed (use Checklists) or Completed (use <u>Rehabilitation Unit Survey Form</u>)	Rental, Owner Occupied or Both	Checklist or Form Appendix Location ¹
1. <u>Municipal Progra</u>	<u>Proposed</u>	<u>Both</u>	<u>E</u>
2. <u>County Progra</u>	<u>Completed</u>	<u>Both</u>	<u>E</u>
3. _____	_____	_____	_____

¹ If all completed units have already been reported to COAH as part of 2007 monitoring or subsequent CIM updates, there is no need to re-submit Rehabilitation Unit Survey Forms. If additional units have been completed subsequent to 2007 monitoring, the municipality may submit updated forms. If the plan relies only on completed units previously reported via 2007 monitoring, enter "on file" in this column.

Table 2. Programs, Projects and/or units addressing the Prior Round.

Project/Program Name	Mechanism or Bonus Type	Proposed (use checklists) or Completed (use Project/Unit Program Information Form(s))	Units Addressing Obligation (Note with "BR" where Special Needs bedrooms apply)	Number Addressing Rental Obligation	Number Subject to Age-Restricted Cap	Checklist or Form Appendix Location ¹
1. Bk 310, Lot 1&2	Inclusionary Zoning	Proposed	5	0	0	
2. Bk 311, Lot 1-3	Inclusionary Zoning	Proposed	5	0	0	
3. Stonefields	Inclusionary Zoning	Proposed	2	0	0	
4.						
5. Community Action	Alternative Living	Completed	4	4	0	
6. E Barabash Manor	Municipally Sponsored	Completed	16	16	16	C T M
7. Jam Realty	Inclusionary Zoning	Proposed	4	0	0	
8. Murray Hill Farm	Inclusionary Zoning	Completed	4	0	0	
9. Our House Inc	Alternative Living	Completed	4	0	0	
10. Patriot Village	Inclusionary Zoning	Completed	4	4	0	
11.						
12.						
13. Southgate	Inclusionary Zoning	Completed	2	0	0	
14. Villages At Np	Inclusionary Zoning	Completed	10	10	0	
15. Spring Gardens	Inclusionary Zoning	Completed	6	6	0	
Subtotal from any additional pages used				2		
Total units (proposed and completed)				66		
Total rental				44		
Total age-restricted				16		
Total very-low				8		
Total bonuses				14		

Please add additional sheets as necessary.

¹ If all completed units have already been reported to COAH as part of 2007 monitoring or subsequent CFM updates, there is no need to re-submit monitoring forms. If additional units have been completed subsequent to 2007 monitoring, the municipality may submit updated forms. If the plan relies only on completed units previously reported via 2007 monitoring, enter "on file" in this column.

Table 3. Programs, Projects and/or Units Addressing the Third Round.

Project Name	Mechanism or Bonus Type	Proposed (use checklist(s)) or Completed (use Project/Unit Program Information Form)	Units Addressing Obligation (Note with "BR" where Special Needs bedrooms apply)	Units Addressing Rental Obligation	Units Addressing Family Obligation	Units Subject to Age- restricted Cap	Checklist or Form Appendix Location ¹
16. Market To Affordable	Market to Affordable	<u>Proposed</u>	8	8	8	0	—
17. Com'ty Acc-1 Br	Special Needs	<u>Completed</u>	6	6	0	0	—
18. Com'ty Acc-2 Br	Special Needs	<u>Completed</u>	6	6	0	0	—
19. U.C.Arc 1	Special Needs	<u>Completed</u>	4	4	0	0	—
20. U.C.Arc 2	Special Needs	<u>Completed</u>	3	3	0	0	—
21. E Barabash Manor	Municipally Sponsored	<u>Completed</u>	6	6	0	6	—
22. Arc Of Union	Special Needs	<u>Proposed</u>	3	3	0	0	—
23. Our House, Inc.	Special Needs	<u>Proposed</u>	2	2	0	0	—
24.							—
25. Murray Hill Farm	Site-Specific Zoning	<u>Completed</u>	9	9	9	0	—
26. B 222, Lots 1-3	Site-Specific Zoning	<u>Proposed</u>	15		15	0	—
27. 100% Affordable	Municipally Sponsored	<u>Proposed</u>	123		123	0	—
28.							—
29.							—
30.							—
Subtotal from any additional pages used			Total units (proposed and completed)				187
Total family units			Total rental units				47
Total age-restricted units			Total family rental units				17
Total Supportive/Special Needs units			Total very-low units				24
Total Special Needs bedrooms			Total bonuses				0
Please add additional sheets as necessary.							

¹ If all completed units have already been reported to COAH as part of 2007 monitoring or subsequent CTM updates, there is no need to re-submit monitoring forms. If additional units have been completed subsequent to 2007 monitoring, the municipality may submit updated forms. If the plan relies only on completed units previously reported via 2007 monitoring, enter "on file" in this column.

Please answer the following questions necessary for completeness review regarding the municipality's draft and/or adopted implementing ordinances.

AFFORDABLE HOUSING TRUST FUND (N.J.A.C. 5:97-8)

1. Does the municipality have an affordable housing trust fund account? (Note: Pursuant to P.L. 2008 c.46, municipalities that do not submit a fully executed escrow agreement will forfeit the ability to retain development fees.)

☒ Yes, Bank Name PNC Bank

(Choose account type) ☒ Separate interest-bearing account

☐ State of New Jersey cash management fund

☐ No (Skip to the Affordable Housing Ordinance section)

2. Has an escrow agreement been executed? ☒ Yes ☐ No
(If no, petition is incomplete. Submit an executed escrow agreement.)

3. Is all trust fund monitoring up-to-date as of December 31, 2007? ☒ Yes ☐ No
(If no, petition is incomplete. Submit an updated trust fund monitoring report.)

DEVELOPMENT FEE ORDINANCES (N.J.A.C. 5:97-8.3)

1. Does the Fair Share Plan include a proposed or adopted development fee ordinance? (Note: Pursuant to P.L. 2008 c.46, municipalities that do not submit a development fee ordinance will forfeit the ability to retain non-residential development fees)

☒ Yes,

☒ Adopted OR ☐ Proposed

☐ No Skip to the next category; Payments-in-Lieu

2. If adopted, specify date of COAH/Court approval here: October 8, 2008

- Have there been any amendments to the ordinance since COAH or the Court approved the ordinance?

☒ Yes, Ordinance Number. _____ Adopted on _____

☐ No (Skip to the next category; Payments-in-Lieu)

- If yes, is the amended ordinance included with your petition?

☒ Yes

☐ No, (Petition is incomplete. Submit ordinance with governing body resolution requesting COAH approval of amended ordinance)

3. Does the ordinance follow the ordinance model **updated September 2008** and available at www.nj.gov/dca/coah/round3resources.shtml? If yes, skip to question 5.

☒ Yes ☐ No

4. If the answer to 3, above is no, indicate that the necessary items below are addressed before submitting the Development Fee ordinance to COAH:

Information and Documentation

The ordinance imposes a residential development fee of 1.50% and a Non-residential fee of 2.5%

☒ A description of the types of developments that will be subject to fees per N.J.A.C. 5:97-8.3(c) and (d);

☒ A description of the types of developments that are exempted per N.J.A.C. 5:97-8.3(e)

☒ A description of the amount and nature of the fees imposed per N.J.A.C. 5:97-8.3(c) and (d)

☒ A description of collection procedures per N.J.A.C. 5:97-8.3(f)

☒ A description of development fee appeals per N.J.A.C. 5:97-8.3(g)

☒ A provision authorizing COAH to direct trust funds in case of non-compliance per N.J.A.C. 5:97-8.3(h)

☐ If part of a court settlement, submit court ordered judgment of compliance, implementation ordinances, information regarding period of time encompassed by the judgment of compliance and a request for review by the court

5. Does the ordinance include an affordability assistance provision per N.J.A.C. 5:97-8.8 (Note: must be at least 30 percent of all development fees plus interest)?

☒ Yes (Specify actual or anticipated amount) \$ _____

☐ No Submit an amended ordinance with provisions for affordability assistance along with a governing body resolution requesting COAH approval of the amended ordinance.)

■ If yes, what kind of assistance is offered?

Rental

Assistance.

■ Has an affordability assistance program manual been submitted? ☐ Yes ☒ No

¹ Any amendment to a previously approved and adopted development fee ordinance must be submitted to COAH along with a resolution requesting COAH's review and approval of the amendment prior to the adoption of said amendment by the municipality.

**PAYMENTS-IN-LIEU OF CONSTRUCTING AFFORDABLE UNITS ON
SITE (N.J.A.C. 5:97-8.4)**

1. Does the Fair Share Plan include an inclusionary zoning ordinance that provides for payments-in-lieu as an option to the on-site construction of affordable housing?
☐ Yes ☒ No (Skip to the next category; Barrier Free Escrow)
2. Does the plan identify an alternate site and/or project for the payment-in-lieu funds? (Optional)
☐ Yes (attach applicable checklist)
☐ No (identify possible mechanisms on which payment in lieu will be expended in narrative section of plan.)
3. Does the ordinance include minimum criteria to be met before the payments-in-lieu becomes an available option for developers? (Optional)
☐ Yes (indicate ordinance section) _____
☐ No

BARRIER FREE ESCROW/OTHER FUNDS (N.J.A.C. 5:97-8.5/8.6)

1. Has the municipality collected or does it anticipate collecting fees to adapt affordable unit entrances to be accessible in accordance with the Barrier Free Subcode, N.J.A.C. 5:23-7?
☐ Yes ☒ No
2. Does the municipality anticipate collecting any other funds for affordable housing activities?
☐ Yes (specify funding source and amount) _____
☒ No

SPENDING PLANS (N.J.A.C. 5:97-8.10)

1. Does the petition include a Spending Plan? (Note: Pursuant to P.L. 2008 c.46, municipalities that do not submit a Spending Plan will forfeit the ability to retain development fees.)
☒ Yes ☐ No
2. Does the Spending Plan follow the Spending Plan model updated October 2008 and available at www.nj.gov/dca/coah/round3resources.shtml? If yes, skip to next section - Affordable Housing Ordinance.
☒ Yes ☐ No
3. If the answer to 1. above is no, indicate that the necessary items below are addressed before submitting the spending plan to COAH:

Information and Documentation

- ☒ A projection of revenues anticipated from imposing fees on development, based on actual proposed and approved developments and historical development activity;
- ☒ A projection of revenues anticipated from other sources (specify source(s) and amount(s));
- ☒ A description of the administrative mechanism that the municipality will use to collect and distribute revenues;
- ☒ A description of the anticipated use of all affordable housing trust funds pursuant to N.J.A.C. 5:97-8.7;
- ☒ A schedule for the expenditure of all affordable housing trust funds;
- ☒ A schedule for the creation or rehabilitation of housing units;
- ☐ If the municipality envisions being responsible for public sector or non-profit construction of housing, a detailed pro-forma statement of the anticipated costs and revenues associated with the development, consistent with standards required by HMFA or the DCA Division of Housing in its review of funding applications;
- ☒ If the municipality maintains an existing affordable housing trust fund, a plan to spend the remaining balance as of the date of its third round petition within four years of the date of petition;
- ☒ The manner through which the municipality will address any expected or unexpected shortfall if the anticipated revenues from development fees are not sufficient to implement the plan;
- ☒ A description of the anticipated use of excess affordable housing trust funds, in the event more funds than anticipated are collected, or projected funds exceed the amount necessary for satisfying the municipal affordable housing obligation; and
- ☒ If not part of the petition, a resolution of the governing body requesting COAH review and approval of spending plan or an amendment to an approved spending plan.

AFFORDABLE HOUSING ORDINANCE (N.J.A.C. 5:80-26.1 et seq.)

1. Does the Fair Share Plan include an Affordable Housing Ordinance?
☒ Yes ☐ No
2. Does the ordinance follow the ordinance model available at www.nj.gov/dca/coah/round3resources.shtml? ☒ Yes ☐ No
3. If the answer to 1. or 2. above is no, indicate that the required items below are addressed before submitting to COAH. If the required items are addressed in ordinances other than an Affordable Housing Ordinance, please explain in a narrative section of the Fair Share Plan.

Required Information and Documentation

- ☐ Affordability controls
- ☐ Bedroom distribution
- ☐ Low/moderate-income split and bedroom distribution
- ☐ Accessible townhouse units
- ☐ Sale and rental pricing
- ☐ Municipal Housing Liaison
- ☐ Administrative Agent
- ☐ Reference to the Affirmative marketing plan or ordinance (N.J.A.C. 5:80-26.15)

AFFORDABLE HOUSING ADMINISTRATION (As Applicable)

Items that must be submitted with the petition:

- ☒ Governing body resolution designating a municipal housing liaison (COAH must approve)

Items that must be submitted prior to COAH's grant of Substantive Certification:

- ☐ Operating manual for rehabilitation program
- ☐ Operating manual for affordability assistance
- ☐ Operating manual for an Accessory Apartment program
- ☐ Operating manual for a Market-to-Affordable program
- ☐ COAH approved administrative agent if municipal wide

Items that must be submitted prior to any time prior to marketing completed units:

- ☐ COAH approved administrative agent(s) is project specific
- ☐ Operating manual for sale units
- ☐ Operating manual for rental units
- ☐ Affirmative marketing plan or ordinance (N.J.A.C. 5:80-26.15)

CERTIFICATION

I, _____, have prepared this petition application for substantive certification on behalf of _____. I certify that the information submitted in this petition is complete, true and accurate to the best of my knowledge. I understand that knowingly falsifying the information contained herein may result in the denial and/or revocation of the municipality's substantive certification.

Signature of Preparer (affix seal if applicable)

Date

Title

N.J.S.A. 2C:21-3, which applies to the certifications, declares it to be a disorderly person offense to knowingly make a false statement or give false information as part of a public record.

Narrative Section

Table 1: Cumulative Cycles I, II and III Credit Analysis			
Project	Affordable Units/Credits	Unit/Credit Type	Status
Rehabilitation Component			
Rehabilitation Obligation as per NJAC 5:97	19	Rehabilitated Units	-
Rehabilitation Credits (Built & Proposed)	19	Rehabilitated Units	-
Total	19	Rehabilitated Units	Obligation Satisfied
Approved Prior Round Plan to Address 54-Unit RDP			
Prior Cycle Credits			
Our House Inc.	4	Special Needs - Group Home	Completed 7/12/1982
Total	4	Units	-
Rental Component (Minimum 14 units)			
Villages at New Providence	10	Family Rental	Completed 7/31/1994
Villages at New Providence Rental Bonus	10	-	-
Elizabeth Barabash Manor	16	Age-Restricted Rental (100% AHU)	Completed 11/17/1997
Community Action Independent Living	4	Special Needs - Group Home	Completed 6/9/1992
Community Action Independent Living Rental Bonus	4	-	-
Total	44	Units	-
Owner-Occupied Inclusionary Projects			
Murray Hill Farms (Block 376, Lot 1)	4	Family	Completed 9/28/1994
Southgate at Murray Hill	2	Family	Completed 11/22/1995
Total	6	Units	-
Cycle I/II RDP Obligation Totals			
Obligation	54	Credits	-
Total Credits Provided	54	Credits	RDP Obligation Satisfied
Approved Prior Round Plan to Address Unmet Need			
Patriot Village	4	Family Rental	Completed 3/10/2006
Spring Gardens	6	Family Rental	Completed in 2008
Stonefields at New Providence	2	Family Sale	Approved 8/14/2007
Marion Avenue Site (JAM, Block 234, Lots 15, 17, 19, 20 & 27)	4	Inclusionary	Zoning in Place
Block 310, Lots 1 & 2	5	Inclusionary	Zoning in Place
Block 311, Lots 1, 2 & 3	5	Inclusionary	Zoning in Place

Cycle III			
Units to Satisfy Current Cycle III Obligation (Phase I)			
Elizabeth Barabash Manor	6	Age-Restricted Rental (100% AHU)	Completed 11/17/1997
Market to Affordable Program	8	Family Rental	Proposed
Union County Arc 1	4	Special Needs - Group Home	Completed 11/14/2002
Community Access 1	6	Special Needs - Group Home	Completed 1/30/1998
Murray Hill Farms (Block 376, Lot 1)	9	Family	Completed 9/28/1994
Total	33	Credits	-
Rental Unit Analysis			
Rental Unit Minimum	9	Units	-
Proposed Rental Units	24	Units	-
Age-Restricted Unit Analysis			
Age-Restricted Unit Maximum	8	Units	-
Proposed Age-Restricted Units	6	Units	-
Family Unit Analysis			
Family Unit Minimum	17	Units	-
Proposed Family Units*	17	Units	-
Cycle III Totals			
Municipally Calculated Growth Share Obligation Through June 30, 2012	33	Credits	-
Total Credits Provided	33	Credits	Obligation Satisfied
Plan for Addressing the 154-Unit Difference Between the Municipally Calculated Growth Share Obligation for 1/1/04-6/30/12 and COAH's Growth Share Projections for 1/1/04-12/31/18 (Phase II)			
Units that are Currently Eligible for Full COAH Credit			
Union County Arc 2	3	Special Needs - Group Home	Completed 9/25/1996
Community Access 2	6	Special Needs - Group Home	Completed 1/30/1998
Pending Group Home Addition - Arc of Union County (Block 102, Lot 24)	3	Special Needs - Group Home	Pending
Pending Group Home Addition - Our House, Inc. (Block 111, Lot 29)	2	Special Needs - Group Home	Pending
Total	14	Units	-
Proposed Future Affordable Housing Projects			
Block 222, Lots 1, 2, and 3	15	Units	Proposed
100% Affordable or Municipally Sponsored Housing Projects	125	Units	Proposed
Total	140	Units	-
Total Proposed	154	Units	-
Difference Between Municipal Calculation and COAH's Projections	154	Units	Obligation Satisfied
Growth Share Obligation Totals			
Obligation Based Upon COAH's Growth Share Projections for 1/1/04-12/31/18	187	Credits	-
Municipally Calculated Growth Share Obligation Through June 30, 2012	33	Credits	-
Difference Between Municipal Calculation and COAH's Projections	154	Units	-
Total Units Proposed	187	Units	Obligation Satisfied

* 8 Market to Affordable Family Units + 9 Murray Hill Farms Family Units = 17 Family Units

RESOLUTION
of the
BOROUGH OF NEW PROVIDENCE
Resolution No. 2007-314

Council Meeting Date: 11-05-2007 Date Adopted: 11-05-2007

TITLE: RESOLUTION APPOINTING KEITH LYNCH AS MUNICIPAL HOUSING
LIAISON FOR THE BOROUGH OF NEW PROVIDENCE

Councilperson Robinson submitted the following resolution, which was duly seconded
by Councilperson MacDermott.

WHEREAS, the Governing Body of the Borough of New Providence petitioned
the Council on Affordable Housing (COAH) for substantive certification of its Housing
Element and Fair Share Plan on December 20, 2005; and

WHEREAS, the Borough of New Providence's Fair Share Plan promotes an
affordable housing program pursuant to the Fair Housing Act (N.J.S.A. 52:27D-301, et
seq.) and COAH's Third Round Substantive Rules (N.J.A.C. 5:94-1, et seq.); and

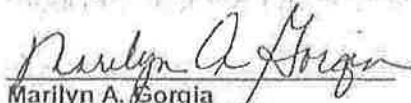
WHEREAS, pursuant to N.J.A.C. 5:94-7 and N.J.A.C. 5:80-26.1 et seq., the
Borough of New Providence is required to appoint a Municipal Housing Liaison for the
administration of the Borough of New Providence's affordable housing program to
enforce the requirements of N.J.A.C. 5:94-7 and N.J.A.C. 5:80-26.1 et seq.; and

WHEREAS, the Borough of New Providence has amended Chapter 275 entitled
'Affordable Housing' to provide for the appointment of a Municipal Housing Liaison to
administer the Borough of New Providence's affordable housing program.

NOW THEREFORE BE IT RESOLVED, by the Governing Body of the Borough
of New Providence in the County of Union, and the State of New Jersey that Keith
Lynch is hereby appointed by the Governing Body of the Borough of New Providence as
the Municipal Housing Liaison for the administration of the affordable housing program,
pursuant to and in accordance with chapter 257 of the code of the Borough of New
Providence.

APPROVED, this 5th day of November, 2007.

I, Marilyn A. Gorgia, Deputy Borough Clerk of the Borough of New Providence, County of Union
and State of New Jersey, hereby certify the foregoing to be a true, exact copy of a resolution duly
adopted by the Borough Council of the Borough of New Providence at a regular Borough Council
meeting held on November 5, 2007.


Marilyn A. Gorgia
Deputy Borough Clerk

May 5, 2010

BOROUGH OF NEW PROVIDENCE
ORDINANCE 2006-20

"AN ORDINANCE AMENDING CHAPTER 275, OF THE CODE OF THE BOROUGH
OF NEW PROVIDENCE ENTITLED 'AFFORDABLE HOUSING' TO CREATE THE
POSITION OF MUNICIPAL HOUSING LIAISON FOR THE PURPOSE OF
ADMINISTERING NEW PROVIDENCE BOROUGH'S AFFORDABLE HOUSING
PROGRAM PURSUANT TO THE FAIR HOUSING ACT"

BE IT ORDAINED by the Borough Council of the Borough of New Providence,
County of Union and State of New Jersey that the following amendments be made
to Chapter 275, Article 1, Paragraph 5 of the Code of the Borough of New
Providence.

Section 1: Article 1, Section 275-5, entitled "Housing Officer" shall be deleted and
replaced as follows:

Section 275-5. Municipal Housing Liaison.

- A. Establishment of position of Municipal Housing Liaison. There is hereby
established the position of Municipal Housing Liaison for the Borough of New
Providence.
- B. Subject to the approval of the Council on Affordable Housing (COAH), the
Municipal Housing Liaison shall be appointed by the Governing Body and may
be a full or part time municipal employee.
- C. The Municipal Housing Liaison shall be responsible for oversight and
administration of the affordable housing program for the Borough of New
Providence, including the following responsibilities that may not be
contracted out:
 - 1. Serving as the Borough of New Providence's primary point of contact
for all inquiries from the State, affordable housing providers,
administrative agents and interested households.
 - 2. Monitoring the status of all restricted units in the Borough of New
Providence's Fair Share Plan.
 - 3. Compiling, verifying and submitting annual reports as required by
COAH.

4. Coordinating meetings with affordable housing providers and administrative agents, as applicable.
 5. Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing, as offered or approved by COAH.
 6. If applicable, serving as the Administrative Agent for some or all of the restricted units in the Borough of New Providence as described in F. below.
- D. Subject to approval by COAH, the Borough of New Providence may contract with, or authorize a consultant, authority, government or any agency charged by the Governing Body, which entity shall have the responsibility of administering the affordable housing program of the Borough of New Providence. If the Borough of New Providence contract with another entity to administer all or any part of the affordable housing program, including the affordability controls and Affirmative Marketing Plan, the Municipal Housing Liaison shall supervise the contracting Administrative Agent.
- E. Compensation: Compensation shall be fixed by the Governing Body at the time of the appointment of the Municipal Housing Liaison.
- F. Administrative powers and duties assigned to the Municipal Housing Liaison:
- 1) Affirmative Marketing
 - a) Conducting an outreach process to insure affirmative marketing of affordable housing units in accordance with the Affirmative Marketing Plan of the Borough of New Providence and the provisions of N.J.A.C. 5:80-26.15; and
 - b) Providing counseling or contracting to provide counseling services to low and moderate income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements and landlord/tenant law.
 2. Enforcement
 - a) Securing annually lists of all affordable housing units for which tax bills are mailed to absentee owners and notifying all such owners that they must either move back to their unit or sell it.

- b) Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Administrative Agent.
- c) The posting annually in all rental properties, including two-family homes, of a notice as to the maximum, permitted rent, together with the telephone number of the Administrative Agent where complaints of excess rent can be made.
- d) Sending annual mailings to all owners of affordable dwelling units, reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.18(d)4.
- e) Establishing a program for diverting unlawful rent payments to the municipality's affordable housing trust fund or other appropriate, municipal fund approved by the DCA.
- f) Establishing a rent-to-equity program.
- g) Creating and publishing a written, operating manual, as approved by COAH, setting forth procedures for administering such affordability controls.
- h) Providing annual reports to COAH as required.

3. The Administrative Agent shall have authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.

Section 2. Severability

If any section, subsection, paragraph, sentence or other part of this ordinance is adjudged unconstitutional or invalid, such judgment shall not affect or invalidate the remainder of this ordinance, but shall be confined in its effect to the section, subsection, paragraph, sentence or other part of this ordinance directly involved in the controversy in which said judgment shall have been rendered and all other provisions of this ordinance shall remain in full force and effect.

Section 3. Inconsistent Ordinances Repealed

All ordinances or parts of ordinances that are inconsistent with the provisions of this ordinance are hereby repealed, but only to the extent of such inconsistencies.

Section 4: Effective Date.

This ordinance shall take effect immediately upon final adoption and publication in the manner prescribed by law.

INTRODUCED: September 11, 2006

ADOPTED: November 6, 2006

I, Marilyn A. Gorgia, Deputy Borough Clerk of the Borough of New Providence, County of Union and State of New Jersey, hereby certify the foregoing to be a true, exact copy of an ordinance duly adopted by the Borough Council of the Borough of New Providence at a regular Borough Council meeting held on November 6, 2006.



Marilyn A. Gorgia
Deputy Borough Clerk

May 5, 2010

...to be a ... of ...
... New ...
... on November 8, 19...

1910-1911

Station A ...
... through ...

APPENDIX C

DOCUMENTATION FOR EXISTING VACANT LAND ADJUSTMENT

VACANT LAND ANALYSIS

What follows are three separate lists of possible housing sites in the Borough of New Providence. The lists were compiled from a survey of properties originally undertaken in 1986 and subsequently updated in 1988, 1989 and again 1995.

The first list identifies sites that are of sufficient size to warrant consideration as potential inclusionary housing development sites.

The second list identifies sites which are Borough-owned. These sites are excluded from the calculation of vacant and developable land, because of the three percent recreational land exemption, but are nevertheless potentially suitable as sites for inclusionary housing developments or for senior citizens housing.

The third list identifies sites which are not vacant but which might be appropriate for redevelopment with senior citizens housing or with an inclusionary housing project someday.

Each site is briefly described with particular attention given to factors which might limit or enhance its development suitability.

LIST I

VACANT, DEVELOPABLE AND
PRIVATELY HELD LAND
OVER 0.5 ACRES IN SIZE

- (1) Lot 20, Block 210, is a 15.99 acre site located between single-family dwellings and industrial uses and fronting on Central Avenue. It abuts a school and some municipally-owned land which could provide a buffer to the single family homes to the west. However, it has become apparent that this site is not suitable for such use because a stream that has been channelized through it occupies much of its acreage and limits its development potential. Moreover, portions of the site are already developed with the facilities of C.R. Bard.
- (2) Lot 1, Block 123, consists of 3.77 acres. Sewer lines would have to be extended to serve this tract. Moreover, this property is privately owned by the Clearwater Club Corp.
- (3) Lot 24, Block 103, contains 2.5 acres of land. It is adjacent to Union County parkland and abuts high-density multifamily residential development in both Summit and New Providence.
- (4) Lots 15, 17, 19, 20 and 27, Block 234, together contain 2.1 acres of land. There is a nonconforming garage on one of these lots and homes on two others. This site is included in the Borough's affordable housing plan and is zoned A-2.
- (5) Lots 1 and 2 in Block 310 are vacant and total about 2.5 acres. Lot 2 has a stream on it which may limit its suitability for development. This property is included in the Affordable Housing Plan and is zoned A-2.
- (6) Lot 3 in Block 311 is vacant. Portions of lot lies in Berkeley Heights. The New Providence portions appear to total about 2.04 acres. Lot 3 is included in the Affordable Housing Plan and is zoned A-2.
- (7) Lot 27, Block 192, containing 1.03 acres. Fairmount Avenue is a paper street at that location and could be combined with Lot 27 to accommodate a very small (ten units) development. The total site area, with half of Fairmount Avenue included, is slightly over an acre. This property is included in the Affordable Housing Plan and is zoned A-2.

LIST II

VACANT BOROUGH - OWNED SITES POTENTIALLY SUITABLE FOR HOUSING DEVELOPMENT (Including existing active municipal recreational land, all Borough owned vacant sites comprise less than 3% of total developed and developable acreage in the Borough)

- (1) A portion of Lot 14, Block 50 (old municipal building site); approximately .75 acres. This is now an approved Senior Citizen Housing Site which will contain 22 affordable units.
- (2) Lot 4, Block 53; 9.78 acres including the library. All of this property is on the green acres inventory and therefore undevelopable. About 6 acres are vacant. All of this property is in the Green Acres inventory and therefore not developable.
- (3) Lot 25, Block 53; owned by the Borough of New Providence; 4.42 acres. Although the site is not currently being used as a school, it fills a vital recreational need.
- (4) Lot 110, Block 14 and Lots 17 and 22 in Block 63. About 5.0 acres total, but should include acquisition of at least the rear of Lot 18 in Block 63. Traversed by a stream. These properties are on the Green Acres inventory and therefore undevelopable.
- (5) Lot 24 in Block 210 is a 2.2 acre site and Lot 17, Block 201, a 1.6 acre site, are on the Green Acres inventory and therefore undevelopable.
- (6) Lot 39, Block 163, consists of 2.31 acres with a stream passing through. This is the Veterans Memorial Park site and is on Green Acres inventory.
- (7) Lot 2 in Block 206 consists of 1.5 acres and is used as an access path to the school.
- (8) Lot 25 in Block 341 (2.44 acres) and Lot 4 in Block 341 (2.44 acres) comprise 9 acres, taken together. The former is Borough-owned but vacant, and might be a potential housing site. However, Warner Field on Lot 4, the larger of the two parcels, is actively used for recreational purposes and is listed on the green acres inventory.
- (9) In Blocks 361 through 368, there are several Borough-owned lots known locally as the "tea" lots. Three houses are located on Union Avenue in front of the Borough-owned land. The Borough was formerly considering using the area for

a composting site, however, the property was found to be environmentally constrained due to wetlands and may not be developable.

(1) A portion of the 100-acre property (approximately 25 acres) is now an active landfill. The landfill is located on the western side of the property.

(2) Lot 1, Block 1, is a 10-acre parcel. All of this property is now an active landfill. The landfill is located on the western side of the property.

(3) Lot 2, Block 1, is a 10-acre parcel. All of this property is now an active landfill. The landfill is located on the western side of the property.

(4) Lot 3, Block 1, is a 10-acre parcel. All of this property is now an active landfill. The landfill is located on the western side of the property.

(5) Lot 4, Block 1, is a 10-acre parcel. All of this property is now an active landfill. The landfill is located on the western side of the property.

(6) Lot 5, Block 1, is a 10-acre parcel. All of this property is now an active landfill. The landfill is located on the western side of the property.

(7) Lot 6, Block 1, is a 10-acre parcel. All of this property is now an active landfill. The landfill is located on the western side of the property.

LIST III

POTENTIALLY REDEVELOPABLE SITES

- (1) Lots 3, 4, 5, 6, 7 and 8, Block 50, on Elkwood Avenue. These lots could be combined for a possible senior citizens housing site. They do have houses on them that are all in sound condition but they could be assembled and redeveloped for senior citizens housing.
- (2) Block 22, Lots 23, 24, 25, and 26. These lots have actively used greenhouses on them, but could be considered as a possible site for senior citizens housing, however, these properties are environmentally constrained due to stream flood plain and wetlands.
- (3) Lot 6, Block 151, was identified in Citizen Housing Opportunities (Candeub, Fleissig, 1986) as a possible site for multi-family housing. It is currently a parking lot for New Providence Tire.
- (4) Lots 26 and 27, Block 121, contain a total of 3.06 acres previously associated with Brennan's Dairy Farm. The property is located on Division Avenue. While the two lots are in separate ownership, the owners are members of the same family and are looking to develop the property jointly. This property is zoned A-2, however, a major portion of the property is environmentally constrained due to stream flood plain and wetlands.
- (5) Lot 13, Block 234 totalling 1.08 acres has received use variance approved for 16 additional garden apartments.



THOMAS H. KEAN
GOVERNOR

NEW JERSEY
COUNCIL ON AFFORDABLE HOUSING

11 C PRINCESS ROAD
LAWRENCEVILLE, N. J. 08648

MAILING ADDRESS:
CN 813

TRENTON, N. J. 08625-0813
(609) 530-6663



JAMES L. LOGUE, III
CHAIRMAN

DOUGLAS V. OPALSKI, P.P. AICP
EXECUTIVE DIRECTOR

1989 MAY 16 AM 10:22

BOROUGH OF NEW PROVIDENCE

May 15, 1989

Honorable Harold Weideli, Jr.,
New Providence Borough
360 Elkwood Avenue
New Providence, NJ 07974

Dear Mayor Weideli:

Enclosed please find a copy of the COAH report regarding your municipality's housing element/fair share plan and petition for substantive certification. This report will be submitted to COAH prior to the final action on your petition for substantive certification.

Comments will be accepted at the COAH office until Tuesday, May 30, 1989 at 5:00 p.m.

If you have any questions or need further information, please call me at (609) 530-6663.

Sincerely,

Douglas V. Opalski, Executive Director

By: Shirley Bishop (p2)
Shirley Bishop
Assistant Director

cc: Municipal Attorney
Planning Board Chairman ✓
Municipal Clerk

AW/py
dl628e

COAH STAFF REPORT
BOROUGH OF NEW PROVIDENCE/UNION COUNTY
REGION #2
PLANNER: ANNEMARIE UEBBING

MUNICIPAL DESCRIPTION

New Providence Borough is a developed, suburban community in northwestern Union County. Several transportation routes, including Interstate 78 and Route 22, provide indirect access to the municipality. Recent development within the municipality has provided job growth in the professional and administrative categories.

PRECREDITED NEED

Precredited Need determined by COAH

Indigenous Need	33
Spontaneous Rehabilitation	11
Rehabilitation Component	22
Inclusionary Component	296

ADJUSTMENTS

The Borough has requested a vacant land adjustment for its reallocated present and prospective need. Through the initial plan and mediation process, it was determined that approximately 40 acres are developable within the municipality. This analysis includes sites that are less than two acres, but were presented by developers during mediation. A Borough map containing environmentally sensitive land was submitted to COAH, however additional mapping must be forwarded prior to final substantive certification.

The following sites have been included in the housing element as developable:

<u>SITE</u>	<u>BLOCK/LOT</u>	<u>ACREAGE</u>	<u>DENSITY</u>	<u>TOTAL UNITS</u>	<u>LOW/MOD UNITS</u>
1	234/15, 17, 19, 20, 27	2.14	10	22	4
2	341/2	0.90	10	10	2
3	121/26, 27	3.06	10	30	6
4	192/27	1.02	10	10	2
5	340/7	5.06	10	50	10
6	372/6	20.50	6	123	24
7	103/24	2.50	14	35	7
8	310/1, 2	2.50	10	25	5
9	311/1, 2, 3	2.50	10	25	5
Total		40.18		330	65

The municipality set densities for each site and required a 20% set-aside. COAH staff visited the sites and concurred with the densities set. A review of the developable sites indicates that 40.18 acres are vacant. Using the appropriate densities set for each site, a total of 65 low and moderate income units could be built. Therefore, the inclusionary component should be reduced to 65, an adjustment of 201 units.

HOUSING ELEMENT

New Providence proposes to meet its adjusted number of 87 units through inclusionary zoning and the implementation of a rehabilitation program.

a). The Borough proposes to administer and fund a rehabilitation program for 22 units. The Borough has agreed to allocate \$80,000 for the first two years of the program. In addition, the municipality will receive \$26,912 from developer contributions to assist in the start-up of the rehabilitation program. The Borough has not finalized the administration of the program or submitted documents that will be used in implementing the program. These items will be required prior to final substantive certification.

b). The Borough proposes to rezone nine sites for inclusionary development. The zoning of the sites ranges from six to fourteen units per acre. The density of each site varies according to surrounding land uses. Each site requires a 20% set-aside. In addition, some sites require a developer contribution, which will be used to fund the rehabilitation program.

FAIR SHARE PLAN

The Borough has created three affordable housing zones, AFD-1, AFD-2, and AFD-3. Each zone allows for the various densities assigned to the inclusionary sites. The fair share plan also includes the affordability controls and marketing plan. The ordinance has been reviewed for compliance with COAH rules. The required changes have been forwarded to the Borough and will be revised prior to substantive certification. The AFD-2 zone must be increased to a density of ten units per acre. The current ordinance has the density set at eight units per acre.

MEDIATION REVIEW

Mediation was conducted between the Borough and two objectors, Frieze Home Builders and David Pennock. In addition, four property owners participated in the mediation process. All objections submitted related to site specific densities and were resolved during mediation. Developer agreements with owners of sites 1, 2, 3, 4 and 5 will be signed once conditional substantive certification is granted.

RECOMMENDATION

The housing element and fair share plan are in compliance with COAH rules. Substantive certification is recommended with the following conditions:

1. Within 60 days of the date of the resolution for conditional substantive certification, all amendments to the housing element and fair share plan shall be incorporated into a revised housing element and fair share plan that has been amended and adopted.

2. Within 60 days of the date of the resolution for conditional substantive certification, New Providence shall provide COAH with all the necessary mapping required for the vacant land adjustment. This mapping must include an aerial photograph, FEMA map, U.S.G.S. Quadrangles and National Wetlands Inventory maps.

3. Within 60 days of the date of the resolution for conditional substantive certification, the Borough shall provide an administrative handbook and forms to be used when administering the rehabilitation program. The Borough shall indicate who will administer the program.

4. Within 60 days of the date of the resolution for conditional substantive certification, the Borough shall provide signed developer agreements for all inclusionary sites and for all sites which are providing funds for the rehabilitation program.



THOMAS H. KEAN
GOVERNOR

NEW JERSEY
COUNCIL ON AFFORDABLE HOUSING

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CHAIRMAN

DOUGLAS V. OPALSKI, P.P. A.I.C.P.
EXECUTIVE DIRECTOR

June 5, 1989

Honorable Harold Weideli, Jr.
New Providence Borough
360 Elkwood Avenue
New Providence, NJ 07974

Dear Mayor Weideli:

Enclosed find a copy of the resolution of the Council on Affordable Housing (COAH) granting your municipality substantive certification with conditions.

If you have any further questions, please contact this office at (609) 530-6663.

Sincerely,

Douglas V. Opalski (signature)

Douglas V. Opalski, Executive Director
Council on Affordable Housing

enclosure

cc: Municipal Attorney
Planning Board Chairman
Objectors of Record

DVO/py
d0445e

RESOLUTION CONDITIONING SUBSTANTIVE CERTIFICATION NO. 71

WHEREAS, on January 5, 1987, New Providence Borough, Union County submitted an adopted housing element and fair share plan dated January 2, 1987 and prepared by Elizabeth C. McKenzie, P.P., P.A. to the Council on Affordable Housing (COAH); and

WHEREAS, New Providence Borough was court transferred on April 25, 1988 which was deemed to be a petition for substantive certification pursuant to N.J.A.C. 5:91-4.2; and

WHEREAS, New Providence Borough published notice of its petition for substantive certification in The Dispatch which is a newspaper of general circulation within the municipality and county, on May 7, 1988, pursuant to N.J.S.A. 52:27D-313 and N.J.A.C. 5:91-4.3; and

WHEREAS, valid objections were filed to New Providence Borough's petition for substantive certification within 45 days of publication of notice of New Providence Borough's petition for substantive certification, pursuant to N.J.S.A. 52:27D-314 and N.J.A.C. 5:91-5.1 et. seq.; and

WHEREAS, as a result of the filing of valid objections, COAH engaged in mediation with the objectors and New Providence Borough pursuant to N.J.S.A. 52:27D-315 and N.J.A.C. 5:91-7.1 et. seq.; and

WHEREAS, the parties were able to reach agreement on the resolution of all of the objections during mediation, as detailed in the mediator's report which is attached to this resolution as Appendix A and is incorporated herein; and

WHEREAS, COAH having reviewed New Providence Borough's petition for substantive certification to determine whether it is consistent with the rules and criteria adopted by COAH and the achievement of low and moderate income housing needs of the region; and

WHEREAS, COAH further having reviewed New Providence Borough's petition for substantive certification to determine whether the combination of the elimination of unnecessary housing cost generating features from the municipal land use ordinances and regulations, and the affirmative measures in the housing element and implementation plan make the achievement of the municipality's fair share of low and moderate income housing realistically possible; and

WHEREAS, COAH has determined that New Providence Borough's precertified need is 318; 296 inclusionary and 22 indigenous need; and

WHEREAS, New Providence has requested a vacant land adjustment in compliance with N.J.A.C. 5:92-8.2 and has submitted a vacant land analysis to COAH as detailed in the COAH Report attached as Appendix B which includes a listing of all vacant public and privately owned sites, as well as possible redevelopment sites, and a land use map which denotes environmentally sensitive land; and copies of the U.S.G.S.; National Wetlands Inventory and FEMA maps and an aerial photograph; and

WHEREAS, from the information submitted and staff inspections, COAH has determined that New Providence Borough is entitled to an adjustment of 231 to a final need number of 87, based on the vacant land adjustments regulations set forth; and

WHEREAS, COAH having determined that for the reasons set forth in the COAH Report, in the event New Providence complies with all conditions set forth in this Resolution, the Borough's petition for substantive certification is consistent with the rules and criteria adopted by COAH and the achievement of low and moderate income housing needs of the region; and

WHEREAS, COAH having determined that, for the reasons set forth in the COAH Report, in the event New Providence complies with all conditions set forth in this Resolution, the combination of the elimination of unnecessary housing cost generating features from the land use ordinance and the implementation plan make the achievement of the municipality's fair share of low and moderate income housing realistically possible.

NOW THEREFORE BE IT RESOLVED that, COAH has determined that New Providence Borough's final need number is 87, based on a vacant land adjustment as detailed in the COAH review report; and

BE IT FURTHER RESOLVED that, after having reviewed and considered the above, COAH HEREBY APPROVES New Providence Borough's petition for substantive certification subject to the following conditions:

1. Within 60 days of the date of this Resolution, New Providence Borough shall provide all amendments to the housing element and fair share plan that are consistent with the agreements reached in mediation. All amendments shall be incorporated into a revised housing element and fair share plan that has been adopted or amended.
2. Within 60 days from the date of the Resolution, New Providence Borough shall provide signed developer agreements for all inclusionary sites and all sites which are providing funds for the rehabilitation program.
3. Within 60 days from the date of this Resolution, New Providence Borough shall provide an administrative handbook and forms to be used when administering the rehabilitation program. The plan shall indicate who will administer the program, the affirmative marketing procedure, the funding source, affordability controls, rehabilitation schedule and rehabilitation standard.
4. New Providence shall budget \$220,000 for the administration, marketing and the actual cost of the rehabilitation of its indigenous need of 22 deficient units. Such funds shall be provided on a pro-rata basis for five of the six years of the substantive certification period with the first appropriation within six months of the date of the Resolution. The appropriation schedule shall be as follows:

December 5, 1990	44,000
December 5, 1991	44,000
December 5, 1992	44,000
December 5, 1993	44,000
December 5, 1994	44,000

BE IT FURTHER RESOLVED that New Providence Borough's fair share obligation is 87 units including a 22 unit rehabilitation component and a 65 unit inclusionary component; and

BE IT FURTHER RESOLVED that if New Providence Borough fails to satisfy the above conditions as detailed, to the satisfaction of COAH and in a timely manner, New Providence Borough's petition for substantive certification shall be deemed denied.

I hereby certify that this resolution was duly adopted by the Council on Affordable Housing at its public meeting on *Dec. 5, 1989.*

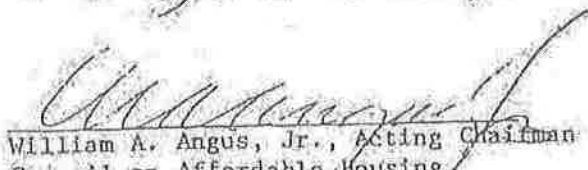

William A. Angus, Jr., Acting Chairman
Council on Affordable Housing

Figure 4-1: Map of the
City of Los Angeles
showing the location of the
study area.

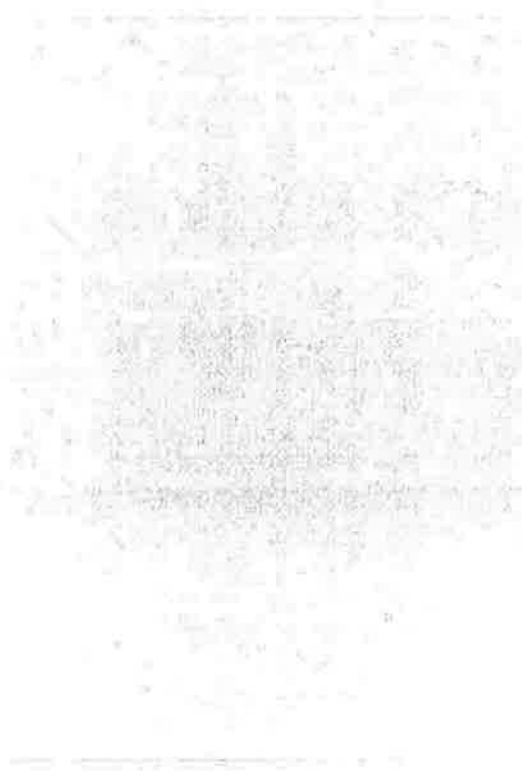


Figure 4-2: Map of the
City of Los Angeles
showing the location of the
study area.

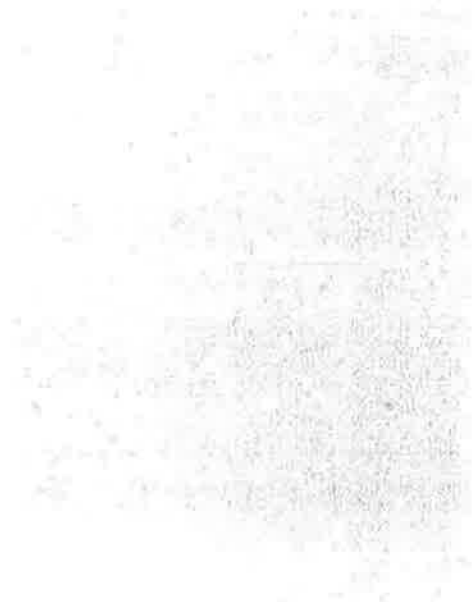


Figure 4-3: Map of the
City of Los Angeles
showing the location of the
study area.

APPENDIX D

AFFORDABLE HOUSING SITE MAP

REHABILITATION PROGRAM (N.J.A.C. 5:97-6.2)

General Description

Municipality/County: New Providence Borough, Union County

Program Name: Local Rehabilitation Program

Number of proposed units to be rehabilitated: 17

Information and Documentation Required with Petition

- ☐ Determination of Rehabilitation Share
- ☒ Accept number in N.J.A.C. 5:97 – Appendix B; OR
- ☐ Exterior Housing Survey conducted by the municipality
- ☒ Information regarding the rehabilitation program on forms provided by the Council. (If relying on previously submitted 2007 monitoring and/or subsequent CTM update, also check here ☐ in lieu of submitting forms.)
- ☒ Documentation demonstrating the source(s) of funding
- ☒ Municipal resolution appropriating funds from general revenue or a resolution of intent to bond in the event of a funding shortfall
- ☒ Schedule illustrating how the rehabilitation share will be addressed within the period of substantive certification

Information and Documentation Required Prior to Substantive Certification

- ☐ Resolution or executed contract designating an experienced Administrative Agent, and a statement of his/her qualifications, in accordance with N.J.A.C. 5:96-18
- ☐ Draft or adopted rehabilitation operating manual that includes a description of the program procedures and administration including a copy of sample deed restriction and/or lien.
- ☐ Affirmative Marketing Plan for the re-rental of rehabilitated rental units, in accordance with UHAC

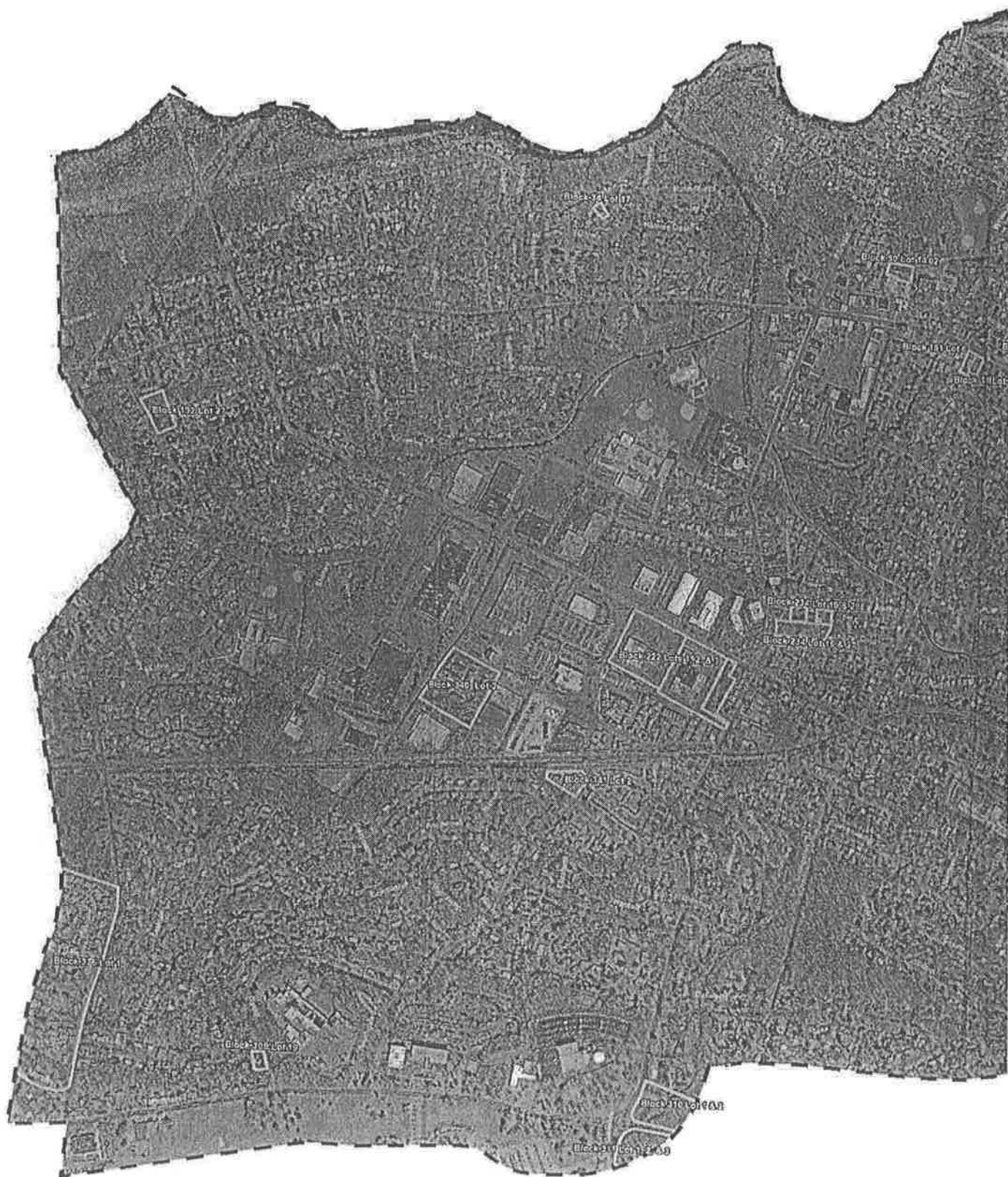
- ☐ Determination of Rehabilitation
- ☒ Agency number in N.I.A. 2-03
- ☐ Extension of survey conducted
- ☒ Information regarding the rehabilitation project, including the following:
 - ☒ Documentation demonstrating the need for rehabilitation
 - ☒ Municipal resolution approving the project
 - ☒ The event of a funding shortfall
- ☒ Submittal of the project to the Rehabilitation Commission

- Information and Documentation
- ☐ Resolution or agreement between the Rehabilitation Commission and the project sponsor
 - ☐ List of adopted resolutions
 - ☐ Minutes and other documents

APPENDIX E

DOCUMENTATION FOR REHABILITATION PROGRAM

Affordable Housing Site Map



Rehabilitation Narrative Section

ATTACHED

In the new program, the rehabilitation narrative section is a key component of the program. It is a narrative description of the rehabilitation process, including the assessment, planning, implementation, and evaluation phases. The narrative is written by the rehabilitation specialist and is used to document the progress of the rehabilitation process. The narrative is also used to communicate the results of the rehabilitation process to the client and the family. The narrative is a key component of the rehabilitation process and is used to ensure that the rehabilitation process is effective and efficient.

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REHABILITATION PROGRAM (N.J.A.C. 5:97-6.2)

NARRATIVE:

The Borough of New Providence Rehabilitation Program shall be implemented consistent with the requirements of 5:97-6.2 and shall address housing deficiencies, such that rehabilitated units shall comply with the New Jersey State Housing Code, N.J.A.C. 5:28 and, where appropriate shall comply with the requirements of the Rehabilitation Sub code, N.J.A.C. 5:23-6.

The Borough will expend a minimum of \$10,000 in hard costs to address housing deficiencies and to bring rehabilitated housing units into compliance with the applicable code requirements.

Funding for the New Providence Rehabilitation Program, including for the related administrative expenditures is currently available in the New Providence Affordable Housing Trust Fund as identified in the Borough's proposed Spending Plan, which is being submitted with the 2010 Revised Housing Element and Fair Share Plan. The "Projected Expenditure Schedule" contained in the herewith submitted Spending Plan indicates that the Borough will undertake to fully address its 17 unit housing rehabilitation obligation in initial years of its remaining eight year compliance period.

Prior to the COAH Substantive Certification of the Borough's Plan and Petition, the Borough will submit to COAH a Resolution or executed contract designating an experienced Administrative Agent, in accordance with N.J.A.C. 5:96-18, together with a draft or adopted Housing Rehabilitation Operating Manual in a form acceptable to COAH, which will include a description of the program procedures and administrative procedures, including sample deed restrictions and/or lien.

It is the present intention of the Borough to target housing deficiencies in existing deed-restricted owner-occupied and renter-occupied low- and moderate income housing located within the Borough of New Providence. Existing deed restrictions on both the owner-occupied and renter-occupied units will insure that continued occupancy and re-sale of units will be affordable for future owners and renters during the required ten year period of affordability.

APPENDIX F

DOCUMENTATION FOR THE MARKET TO AFFORDABLE PROGRAM

MARKET TO AFFORDABLE PROGRAM (N.J.A.C. 5:97-6.9)

General Description

Municipality/County: New Providence Borough, Union County

Affordable Units Proposed: 8

Family Rentals: 8

Low-Income: 4

Moderate-Income: 4

Age-Restricted Rentals:

Low-Income:

Moderate-Income:

Family For-Sale:

Low-Income:

Moderate-Income:

Age-Restricted For-Sale:

Low-Income:

Moderate-Income:

Average expenditure:

For each low-income unit: \$ 40,000

For each moderate-income unit: \$ 30,000

Bonuses, if applicable:

Rental bonuses as per N.J.A.C. 5:97-3.5:

NA

Rental bonuses as per N.J.A.C. 5:97-3.6(a):

NA

Very low income bonuses as per N.J.A.C. 5:97-3.7:

NA

Information and Documentation Required with Petition

- ☒ Project/Program Information Form (previously known as Project/Program Monitoring Form. If relying on previously submitted 2007 monitoring and/or subsequent CTM update, also check here ☒ in lieu of submitting forms.)

- ☒ Demonstration that there are sufficient market-rate units within the municipality on the multiple listing service for a viable program
- ☒ Estimate of the amount required to subsidize typical for-sale and/or rental units including any anticipated rehabilitation costs
- ☒ Documentation of funding sources
- ☒ Municipal resolution appropriating funds from general revenue or a resolution of intent to bond in the event of a funding shortfall
- ☒ Spending plan including the details to implement this program

Information and Documentation Required Prior to Substantive Certification

- ☐ Resolution or executed contract designating an experienced Administrative Agent, and a statement of his/her qualifications, in accordance with N.J.A.C. 5:96-18
- ☐ Adopted operating manual that includes a description of program procedures and administration or a statement indicating that the Administrative Agent designated to run the program uses a COAH-approved manual
- ☐ Affirmative Marketing Plan in accordance with UHAC

Market to Affordable Narrative Section

The Borough's third round Market to Affordable Program rental assistance program shall be implemented to the extent that affordable housing obligations are incurred. Consistent with the requirements of NJAC 5:97-6.7 and UHAC requirements, the Borough of New Providence shall legally enter into a long-term contractual agreement(s) with private rental housing owner(s)/operator(s), which agreement(s) shall establish specific "buy down" rental subsidy payment amounts for very low-, low- and moderate-income for each apartment based upon the number of bedrooms and an agreed upon mechanism to determine an appropriate annual rental subsidy payment increase over the term of the rental assistance program agreement.

Adequacy of Rental Inventory: There are currently more than 1,000 rental units in the Borough, including 640 rental units located in seven (7) privately owned multi-family rental complexes. Three of these seven complexes are already inclusionary housing developments. The normal rate of apartment turnover will clearly accommodate the Borough's modest nine (9) unit rental Market to Affordable Program, which the Borough will implement upon the basis of an RFP to owners of rental housing.

[illegible]

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COAH shall have the authority to...
 and the State...
 COAH shall have the authority to...

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APPENDIX C

DEVELOPMENT FEE ORDINANCE

DRAFT DEVELOPMENT FEE ORDINANCE

1. Purpose

- a) In Holmdel Builder's Association V. Holmdel Township, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985 (the Act), N.J.S.A. 52:27d-301 et seq., and the State Constitution, subject to the Council on Affordable Housing's (COAH's) adoption of rules.
- b) Pursuant to P.L.2008, c.46 section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), COAH is authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that are under the jurisdiction of the Council or court of competent jurisdiction and have a COAH-approved spending plan may retain fees collected from non-residential development.
- c) This ordinance establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's regulations and in accordance P.L.2008, c.46, Sections 8 and 32-38. Fees collected pursuant to this ordinance shall be used for the sole purpose of providing low- and moderate-income housing. This ordinance shall be interpreted within the framework of COAH's rules on development fees, codified at N.J.A.C. 5:97-8.

2. Basic requirements

- a) This ordinance shall not be effective until approved by COAH pursuant to N.J.A.C. 5:96-5.1.
- b) *[Insert name of municipality]* shall not spend development fees until COAH has approved a plan for spending such fees in conformance with N.J.A.C. 5:97-8.10 and N.J.A.C. 5:96-5.3.

3. Definitions

- a) The following terms, as used in this ordinance, shall have the following meanings:
 - i. "Affordable housing development" means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary

development, a municipal construction project or a 100 percent affordable development.

- ii. "COAH" or the "Council" means the New Jersey Council on Affordable Housing established under the Act which has primary jurisdiction for the administration of housing obligations in accordance with sound regional planning consideration in the State.
- iii. "Development fee" means money paid by a developer for the improvement of property as permitted in N.J.A.C. 5:97-8.3.
- iv. "Developer" means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.
- v. "Equalized assessed value" means the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5, and 6 of P.L.1973, c.123 (C.54:1-35a through C.54:1-35c).
- vi. "Green building strategies" means those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

4. Residential Development fees.

a) Imposed fees.

- i. Within the *[insert name of zoning]* district(s), residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of *[insert number - maximum of one and a half percent]* percent of the equalized assessed value for residential development provided no increased density is permitted.
- ii. When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a "d" variance) has been permitted, developers may be required to pay a development fee of *[insert specific number - maximum of six percent]* percent of the equalized assessed value for each additional unit that may be realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal one and a half percent of the equalized assessed value on the first two units; and the specified higher percentage up to six percent of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.

b) Eligible exactions, ineligible exactions and exemptions for residential development

- i. Affordable housing developments, developments where the developer is providing for the construction of affordable units elsewhere in the municipality, and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.
- ii. Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.
- iii. Owner-occupied residential structures demolished and replaced as a result of a fire, flood, or natural disaster shall be exempt from paying a development fee.
- iv. *[optional]* Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded, if the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.
- v. *[optional]* Developers of *[specific types of residential development, for example developments with one or two owner-occupied dwelling units, green buildings etc.]* shall be *[select only one of the following: exempt from paying a development fee, or subject to a reduced fee of X percent]*.
- vi. *[optional]* Within the *[name of zoning district(s) or area(s), e.g. TOD District, Revenue Allocation District, Historic District, etc.]*, residential developers shall be exempt from paying a development fee.

5. Non-residential Development fees

a) Imposed fees

i. Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to two and one-half (2.5) percent of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.

ii. Non-residential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to two and one-half (2.5) percent of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.

iii. Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of two and a half percent (2.5%) shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvement and the equalized assessed value of the newly improved structure, i.e. land and improvement, at the time final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.

b) Eligible exactions, ineligible exactions and exemptions for non-residential development

i. The non-residential portion of a mixed-use inclusionary or market rate development shall be subject to the two and a half (2.5) percent development fee, unless otherwise exempted below.

ii. The 2.5 percent fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.

iii. Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to P.L.2008, c.46, as specified in the Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" Form. Any exemption claimed by a developer shall be substantiated by that developer.

iv. A developer of a non-residential development exempted from the non-residential development fee pursuant to P.L.2008, c.46 shall be subject to it at such time the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the non-residential development, whichever is later.

- v. If a property which was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by *[insert municipality]* as a lien against the real property of the owner.

6. Collection procedures

- a) Upon the granting of a preliminary, final or other applicable approval, for a development, the applicable approving authority shall direct its staff to notify the construction official *[OR insert title of designated municipal official]* responsible for the issuance of a building permit.
- b) For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" to be completed as per the instructions provided. The developer of a non-residential development shall complete Form N-RDF as per the instructions provided. The construction official shall verify the information submitted by the non-residential developer as per the instructions provided in the Form N-RDF. The Tax assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
- c) The construction official responsible for the issuance of a building permit shall notify the local tax assessor of the issuance of the first building permit for a development which is subject to a development fee.
- d) Within 90 days of receipt of that notice, the municipal tax assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.
- e) The construction official responsible for the issuance of a final certificate of occupancy notifies the local assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.
- f) Within 10 business days of a request for the scheduling of a final inspection, the municipal assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
- g) Should *[insert municipality]* fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final

inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in subsection b. of section 37 of P.L.2008, c.46 (C.40:55D-8.6).

h) *[select one of the following paragraphs:]*

The developer shall pay 100 percent of the calculated development fee amount prior to the municipal issuance of a final certificate of occupancy for the subject property.

OR

Fifty percent of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at issuance of certificate of occupancy.

i) Appeal of development fees

1) A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest bearing escrow account by *[insert name of municipality]*. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

2) A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest bearing escrow account by *[insert name of municipality]*. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

7. Affordable Housing trust fund

a) *[select one of the following paragraphs:]*

There is hereby created a separate, interest-bearing housing trust fund to be maintained by the *[chief financial officer or insert municipal employee title]* for the purpose of depositing development fees collected from residential and non-

residential developers and proceeds from the sale of units with extinguished controls.

OR

Upon approval by COAH and by the Division of Local Government Services, *[insert name of municipality]* shall invest development fee revenue and proceeds from the sale of units with extinguished controls into the State of New Jersey Cash Management Fund, provided that the funds in the Cash Management account that comprise the deposits and income attributable to such deposits shall at all times be identifiable.

b) The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:

1. payments in lieu of on-site construction of affordable units;
2. developer contributed funds to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached development accessible;
3. rental income from municipally operated units;
4. repayments from affordable housing program loans;
5. recapture funds;
6. proceeds from the sale of affordable units; and
7. any other funds collected in connection with *[insert municipal name]*'s affordable housing program.

c) Within seven days from the opening of the trust fund account, *[insert name of municipality]* shall provide COAH with written authorization, in the form of a three-party escrow agreement between the municipality, *[select one: the bank or the bank linked to the Cash Management Fund]*, and COAH to permit COAH to direct the disbursement of the funds as provided for in N.J.A.C. 5:97-8.13(b).

d) All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by COAH.

8 Use of funds

a) The expenditure of all funds shall conform to a spending plan approved by COAH. Funds deposited in the housing trust fund may be used for any activity approved by COAH to address the *[insert name of municipality]*'s fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable, or regional housing partnership programs, conversion of existing non-residential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with accepted national or

state standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted pursuant to N.J.A.C. 5:97-8.7 through 8.9 and specified in the approved spending plan.

b) Funds shall not be expended to reimburse *[insert name of municipality]* for past housing activities.

c) At least 30 percent of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30 percent or less of median income by region.

i. Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, and assistance with emergency repairs.

ii. Affordability assistance to households earning 30 percent or less of median income may include buying down the cost of low or moderate income units in the municipal Fair Share Plan to make them affordable to households earning 30 percent or less of median income.

iii. Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.

d) *[insert name of municipality]* may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:96-18.

e) No more than 20 percent of all revenues collected from development fees, may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than 20 percent of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with COAH's monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or objecting to the Council's regulations and/or action are not eligible uses of the affordable housing trust fund.

9. Monitoring

- a) *[insert name of municipality]* shall complete and return to COAH all monitoring forms included in monitoring requirements related to the collection of development fees from residential and non-residential developers, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, barrier free escrow funds, rental income, repayments from affordable housing program loans, and any other funds collected in connection with *[insert municipal name]*'s housing program, as well as to the expenditure of revenues and implementation of the plan *[select appropriate one: certified by COAH or approved by the court]*. All monitoring reports shall be completed on forms designed by COAH.

10. Ongoing collection of fees

- a) The ability for *[insert name of municipality]* to impose, collect and expend development fees shall expire with its *[select appropriate one: substantive certification or judgment of compliance]* unless *[insert name of municipality]* has filed an adopted Housing Element and Fair Share Plan with COAH, has petitioned for substantive certification, and has received COAH's approval of its development fee ordinance. If *[insert name of municipality]* fails to renew its ability to impose and collect development fees prior to the expiration of *[pick one: substantive certification or judgment of compliance]*, it may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320). *[insert name of municipality]* shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its substantive certification or judgment of compliance, nor shall *[insert name of municipality]* retroactively impose a development fee on such a development. *[Insert name of municipality]* shall not expend development fees after the expiration of its substantive certification or judgment of compliance.

SPENDING PLAN

SPENDING PLAN

Draft New Providence Affordable Housing Trust Fund Spending Plan

INTRODUCTION

The Borough of New Providence, Union County, has prepared a Housing Element and Fair Share plan that addresses its regional fair share of the affordable housing need in accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.), the Fair Housing Act (N.J.S.A. 52:27D-301) and the regulations of the Council on Affordable Housing (COAH) (N.J.A.C. 5:97-1 et seq. and N.J.A.C. 5:96-1 et seq.). A development fee ordinance creating a dedicated revenue source for affordable housing was approved by COAH on January 4, 2008 and adopted by the municipality on March 10, 2008. The ordinance establishes the New Providence affordable housing trust fund for which this spending plan is prepared.

As of July 17, 2008, New Providence Borough has collected \$349,379.31, expended \$125,748.91, resulting in a balance of \$223,630.40. All development fees, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, and interest generated by the fees are deposited in a separate interest-bearing affordable housing trust fund in PNC Bank for the purposes of affordable housing. These funds shall be spent in accordance with N.J.A.C. 5:97-8.7-8.9 as described in the sections that follow.

1. REVENUES FOR CERTIFICATION PERIOD

To calculate a projection of revenue anticipated during the period of third round substantive certification, New Providence Borough considered the following:

(a) Development fees:

1. Residential and nonresidential projects which have had development fees imposed upon them at the time of preliminary or final development approvals;
2. All projects currently before the planning and zoning boards for development approvals that may apply for building permits and certificates of occupancy; and
3. Future development that is likely to occur based on historical rates of development.

(b) Payment in lieu (PIL):

Actual and committed payments in lieu (PIL) of construction from developers as follows:

Payments in lieu have not been collected or assessed.

(c) Other funding sources:

Interest on the projected revenue in the municipal affordable housing trust fund is projected at the current average interest rate.

| SOURCE OF FUNDS | PROJECTED REVENUES-HOUSING TRUST FUND - 2008 THROUGH 2018 | | | | | | | | | | | |
|---|---|---------|---------|---------|----------|----------|----------|----------|----------|----------|----------|-----------|
| | 7/18/08
Through
12/31/08 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | Total |
| (a) Development fees: | | | | | | | | | | | | |
| 1. Approved Development | 0 | 35,023 | 24,658 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 59,681 |
| 2. Development Pending Approval | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 3. Projected Development | 0 | 3,048 | 9,146 | 9,146 | 12,194 | 12,194 | 15,243 | 15,243 | 15,243 | 15,243 | 15,243 | 121,943 |
| (b) Payments in Lieu of Construction | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| (c) Other Funds: New Jersey Affordable Housing Trust Fund | 0 | 0 | 0 | tbd | tbd | tbd | tbd | tbd | tbd | tbd | tbd | tbd |
| (d) Interest | \$1,154 | \$474 | 500 | 200 | 200 | 200 | 200 | 200 | 200 | 200 | 200 | 3,528 |
| Total | \$1,154 | \$8,545 | \$4,104 | \$9,346 | \$12,394 | \$12,394 | \$15,443 | \$15,442 | \$15,443 | \$15,443 | \$15,443 | \$185,152 |

New Providence Borough projects a total of \$185,152.00 in revenue to be collected between July 18, 2008 and December 31, 2018. All interest earned on the account shall accrue to the account to be used only for the purposes of affordable housing.

2. ADMINISTRATIVE MECHANISM TO COLLECT AND DISTRIBUTE FUNDS

The following procedural sequence for the collection and distribution of development fee revenues shall be followed by New Providence Borough:

(a) Collection of development fee revenues:

Collection of development fee revenues shall be consistent with New Providence Borough's development fee ordinance for both residential and non-residential developments in accordance with COAH's rules and P.L.2008, c.46, sections 8 (C. 52:27D-329.2) and 32-38 (C. 40:55D-8.1 through 8.7).

(b) Distribution of development fee revenues:

Funds set-aside for the Borough's housing rehabilitation program shall be disbursed in accordance with a COAH-approved "Operating Manual for the Administration of Rehabilitation Program."

The Borough's Third Round Market-to-Affordable" rental assistance program shall be implemented to the extent that affordable housing obligations are incurred. Consistent with the requirements of 5:97-6.7 and UHAC regulations, the Borough of New Providence shall legally enter into a long term contractual agreement(s) with private rental housing owner(s) or operators, which agreement(s) shall establish the specific "buy-down" rental subsidy payment amount for very-low, low and moderate-income for each apartment based upon the number of bedrooms and an agreed-upon mechanism to determine an appropriate annual increase rental subsidy payment increase over the term of the rental assistance program agreement.

On November 12, 2009 COAH adopted a Resolution (COAH Docket No. 09-2169) approving an expenditure of \$125,000 from the Borough's Affordable Housing Trust Fund to provide financial assistance for the establishment of a three-bedroom group home at 905 Springfield Avenue (\$75,000) by Arc of Union County and the two-bedroom expansion of the existing Our House, Inc. group home (\$50,000) located at 32 Pine Way. The portions of this Spending Plan that pertain to expenditures have been updated to reflect the expenditures for these two group homes.

3. DESCRIPTION OF ANTICIPATED USE OF AFFORDABLE HOUSING FUNDS

(a) Rehabilitation and new construction programs and projects (N.J.A.C. 5:97-8.7)

New Providence Borough will dedicate \$ 204,000 to rehabilitation or new construction programs (see detailed descriptions in Fair Share Plan) as follows:

Rehabilitation program: \$ 204,000.

New construction project(s):

\$75,000 for a three-bedroom group home at 905 Springfield Avenue for Arc of Union County.

\$50,000 for a two-bedroom expansion of the existing Our House, Inc. group home located at 32 Pine Way.

(b) Affordability Assistance (N.J.A.C. 5:97-8.8)

Projected minimum affordability assistance requirement:

| | | |
|---|-----------------|---------------|
| Actual development fees through 7/17/2008 | | \$ 335,351.58 |
| Actual interest earned through 7/17/2008 | + | \$14,027.73 |
| Development fees projected* 2008-2018 | + | \$181,624.00 |
| Interest projected* 2008-2018 | + | \$3,528.00 |
| Less housing activity expenditures through 6/2/2008 | - | \$122,901.66 |
| Total | = | 411,629.65 |
| 30 percent requirement | $\times 0.30 =$ | \$123,488.90 |
| Less Affordability assistance expenditures through 12/31/2004 | - | \$ 0 |
| PROJECTED MINIMUM Affordability Assistance Requirement 1/1/2005 through 12/31/2018 | = | \$123,488.90 |
| PROJECTED MINIMUM Very Low-Income Affordability Assistance Requirement 1/1/2005 through 12/31/2018 | $\div 3 =$ | \$41,162.97 |

* Note: The 2008 portion of this projection reflects 2008 subsequent to July 17 as the remainder of 2008 is included in the actual figure reported above.

New Providence Borough will dedicate \$123,488.90 from the affordable housing trust fund to render units more affordable, including \$41,162.97 to render units more affordable to households earning 30 percent or less of median income by region, as follows:

Market-to-Affordable rental assistance and converting low-income units to very-low-income units.

(c) Administrative Expenses (N.J.A.C. 5:97-8.9)

New Providence Borough projects that \$218,492.11 will be required from the affordable housing trust fund to be used for administrative purposes. Projected administrative expenditures are as follows:

Preparation of Third Round Plan: \$126,492.11

Administrative Agent Expenses: \$72,000

Legal Expenses: \$20,000

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5. EXCESS OR SHORTFALL OF FUNDS

Pursuant to the Housing Element and Fair Share Plan, the governing body of New Providence Borough has adopted a resolution of intent to bond for any shortfall of funds required for implementing its rehabilitation and market to affordable and affordability assistance programs. A copy of the adopted resolution is included within Appendix J of the 2010 Housing Plan Element and Fair Share Plan.

In the event of excess funds, any remaining funds above the amount necessary to satisfy the municipal affordable housing obligation will be used to address identifiable housing affordability needs within the Borough of New Providence.

6. BARRIER FREE ESCROW

Collection and distribution of barrier free funds shall be consistent with New Providence Borough's Affordable Housing Ordinance in accordance with N.J.A.C. 5:97-8.5.

N.A.

SUMMARY

New Providence Borough intends to spend affordable housing trust fund revenues pursuant to N.J.A.C. 5:97-8.7 through 8.9 and consistent with the housing programs outlined in the 2010 Housing Element and Fair Share Plan.

New Providence Borough has a balance of \$223,630.40 as of July 17, 2008 and anticipates an additional \$185,152.00 in revenues before the expiration of substantive certification for a total of \$408,782.40. The municipality will dedicate up to \$615,029.00 towards housing rehabilitation, Market to Affordable, and group home programs. The Borough will also dedicate \$122,430.49 to affordability assistance and \$218,492.11 to administrative costs. Any shortfall of funds will be offset by anticipated financial assistance from the New Jersey Affordable Housing Trust Fund. The municipality will dedicate any excess funds toward market to affordable rental assistance programs.

| SPENDING PLAN SUMMARY | |
|---|------------------------|
| Balance as of July 17, 2008 | \$ 223,630.40 |
| PROJECTED REVENUE July 18, 2008-2018 | |
| Development fees | + \$181,624. |
| Payments in lieu of construction | + \$ 0 |
| Other funds | + \$ |
| Interest | + \$3,528.00 |
| TOTAL PROJECTED REVENUE | = \$ 408,782.40 |
| EXPENDITURES | |
| Funds used for Rehabilitation | - \$204,000. |
| Funds used for New Construction | |
| 1. Market to Affordable Rental Assistance | - \$286,029 |
| 2. 905 Springfield Avenue | - \$75,000 |
| 3. 32 Pine Way | - \$50,000 |
| 4. Affordability Assistance | - \$122,430.49 |
| 5. Administration | - \$218,492.11 |
| TOTAL POTENTIAL EXPENDITURES | \$955,951.60 |

New Providence Borough has a total of \$223,630.40 in the Housing Trust Fund as of July 17, 2008. The Borough anticipates an additional \$181,624 in revenue from development fees over the next ten years. The Borough anticipates a total of \$408,782.40 in revenue from the Housing Trust Fund over the next ten years. The Borough anticipates a total of \$955,951.60 in potential expenditures over the next ten years. The Borough anticipates a total of \$204,000 in expenditures for rehabilitation over the next ten years. The Borough anticipates a total of \$286,029 in expenditures for market to affordable rental assistance over the next ten years. The Borough anticipates a total of \$75,000 in expenditures for 905 Springfield Avenue over the next ten years. The Borough anticipates a total of \$50,000 in expenditures for 32 Pine Way over the next ten years. The Borough anticipates a total of \$122,430.49 in expenditures for affordability assistance over the next ten years. The Borough anticipates a total of \$218,492.11 in expenditures for administration over the next ten years.

New Providence Borough has a total of \$223,630.40 in the Housing Trust Fund as of July 17, 2008. The Borough anticipates an additional \$181,624 in revenue from development fees over the next ten years. The Borough anticipates a total of \$408,782.40 in revenue from the Housing Trust Fund over the next ten years. The Borough anticipates a total of \$955,951.60 in potential expenditures over the next ten years. The Borough anticipates a total of \$204,000 in expenditures for rehabilitation over the next ten years. The Borough anticipates a total of \$286,029 in expenditures for market to affordable rental assistance over the next ten years. The Borough anticipates a total of \$75,000 in expenditures for 905 Springfield Avenue over the next ten years. The Borough anticipates a total of \$50,000 in expenditures for 32 Pine Way over the next ten years. The Borough anticipates a total of \$122,430.49 in expenditures for affordability assistance over the next ten years. The Borough anticipates a total of \$218,492.11 in expenditures for administration over the next ten years.

WITNESSES: [illegible] and [illegible]

WITNESSES: [illegible] and [illegible]

WITNESSES: [illegible] and [illegible]

WITNESSES: [illegible] and [illegible]

WITNESSES: [illegible] and [illegible]

WITNESSES: [illegible] and [illegible]

APPENDIX I

ESCROW AGREEMENT

Draft Escrow Agreement for Housing Trust Fund

NOTE: In order for COAH to execute a three-party escrow agreement, the municipality must submit three copies of the agreement, all with original signatures from the municipal representative and the bank representative.

This Escrow Agreement made this ____ day of [month], [year], by and between the Council on Affordable Housing (COAH) and [insert name of municipality] and [insert name of bank] (the Bank).

WHEREAS, a municipality may impose, collect and spend development fees and establish an affordable housing trust fund that includes, development fees; payments from developers in lieu of constructing affordable units on-site; developer-contributed funds to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached development accessible; rental income from municipally operated units; repayments from affordable housing program loans; recapture funds; proceeds from the sale of affordable units; and/or any other funds collected in connection with [insert municipal name]'s affordable housing program in accordance with P.L.2008, c.46 (C. 52:27D-329.1 et al) and the regulations of COAH at N.J.A.C. 5:97-8.1 et seq.; and

WHEREAS, on [insert date of approval] COAH approved the [insert name of municipality] Development Fee Ordinance establishing standards for the collection, maintenance and expenditure of development fees consistent with COAH's rules and P.L.2008, c.46 (C. 52:27D-329.1 et al) and requiring that funds shall only be applied directly toward implementation of [insert name of municipality]'s COAH-certified Fair Share Plan or Court Judgment of Compliance; and

WHEREAS, on [insert date] the governing body of [insert name of municipality] adopted Ordinance No. [insert number], the Development Fee Ordinance of [insert name of municipality], amending the Municipal Code; and

[Select one of the following two statements which pertains to your municipality.]

WHEREAS, on [insert date of approval] COAH approved the [insert name of municipality] Spending Plan establishing standards for the expenditure of development fees; payments from developers in lieu of constructing affordable units on-site; developer-contributed funds to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached development accessible; rental income from municipally operated units; repayments from affordable housing program loans; recapture funds; proceeds from the sale of affordable units; and/or any other funds collected in connection with [insert municipal name]'s affordable housing program in accordance with P.L.2008, c.46 (C. 52:27D-329.1 et al) and the regulations of COAH at N.J.A.C. 5:97-8.1 et seq.; and

[or]

WHEREAS, COAH has not yet approved a spending plan for [insert name of municipality], [insert name of municipality] acknowledges that no expenditure of development fees; payments from developers in lieu of constructing affordable units on-site; developer-contributed funds to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached development accessible; rental income from municipally operated units; repayments from affordable housing program loans; recapture funds; proceeds from the sale of affordable units; and/or any other funds collected in connection with [insert municipal name]'s affordable housing program in accordance with P.L.2008, c.46 (C. 52:27D-329.1 et al) and the regulations of COAH at N.J.A.C. 5:97-8.1 et seq. may occur prior to COAH's approval of a spending plan; and

WHEREAS, the Development Fee Ordinance requires an interest-bearing housing trust fund to be established for the purpose of receiving collected development fees; payments from developers in lieu of constructing affordable units on-site; developer-contributed funds to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached development accessible; rental income from municipally operated units; repayments from affordable housing program loans; recapture funds; proceeds from the sale of affordable units; and/or any other funds collected in connection with [insert municipal name]'s affordable housing program in accordance with P.L.2008, c.46 (C. 52:27D-329.1 et al) and the regulations of COAH at N.J.A.C. 5:97-8.1 et seq. and provides that no money shall be expended from the housing trust fund unless the expenditure conforms to the Development Fee Ordinance, a spending plan approved by COAH and the conditions set out at N.J.A.C. 5:97-8.7-8.9; and

WHEREAS, COAH's approval of the Development Fee Ordinance further requires [insert name of municipality], within seven days of opening the trust fund account authorized by the ordinance, to enter into an escrow agreement with COAH pursuant to N.J.A.C. 5:97-8.2(a) to enable COAH to monitor disbursement of collected development fees; payments from developers in lieu of constructing affordable units on-site; developer-contributed funds to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached development accessible; rental income from municipally operated units; repayments from affordable housing program loans; recapture funds; proceeds from the sale of affordable units; and/or any other funds collected in connection with [insert municipal name]'s affordable housing program in accordance with P.L.2008, c.46 (C. 52:27D-329.1 et al) and the regulations of COAH at N.J.A.C. 5:97-8.1 et seq. and to direct the forfeiture of such funds after proper notice if their imposition, collection and/or expenditure are not in conformance with the terms of the approved Development Fee Ordinance, the conditions set out at N.J.A.C. 5:97-8.13(a), the spending plan approved by COAH, and P.L.2008, c.46 (C. 52:27D-329.1 et al); and

WHEREAS, the Development Fee Ordinance further provides that if COAH determines that the imposition, collection, and/or expenditure of development fees are not in conformance with the terms of the approved Development Fee Ordinance, approved spending plan, and P.L.2008, c.46 (C. 52:27D-329.1 et al), COAH may, after a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., revoke a Development Fee Ordinance approval and direct the transfer of funds including future collection of non-residential development fees to the New Jersey Affordable Housing Trust Fund.

NOW THEREFORE, COAH, *[insert name of municipality]* and the Bank agree as follows:

1. Designation of Escrow Agent

COAH and *[insert name of municipality]* hereby designate *[insert name of bank]* (the Bank) as their escrow agent, upon terms and conditions set forth herein, for the purpose of (a) receiving development fees, payments from developers in lieu of constructing affordable units on-site; developer-contributed funds to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached development accessible; rental income from municipally operated units; repayments from affordable housing program loans; recapture funds; proceeds from the sale of affordable units; and/or any other funds collected in connection with *[insert municipal name]*'s affordable housing program in accordance with P.L.2008, c.46 (C. 52:27D-329.1 et al) and the regulations of COAH at N.J.A.C. 5:97-8.1 et seq. collected by *[insert name of municipality]*, (b) holding such sums in the escrow account hereinafter described, and (c) disbursing the monies upon the direction of the *[insert title of municipal officer]* of *[insert name of municipality]* consistent with the spending plan approved by COAH.

2. Escrow Account

[Insert name of municipality] shall deposit all development fees; payments from developers in lieu of constructing affordable units on-site; developer-contributed funds to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached development accessible; rental income from municipally operated units; repayments from affordable housing program loans; recapture funds; proceeds from the sale of affordable units; and/or any other funds collected in connection with *[insert municipal name]*'s affordable housing program in accordance with P.L.2008, c.46 (C. 52:27D-329.1 et al) and the regulations of COAH at N.J.A.C. 5:97-8.1 et seq. with the escrow agent and said escrow agent shall establish a separate, interest bearing account to be known as *[insert name of account]* (the Account) and shall deposit therein such initial funds, as well as all subsequent development fees; payments from developers in lieu of constructing affordable units on-site; developer-contributed funds to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached development accessible; rental income from municipally operated units; repayments from affordable housing program loans; recapture funds; proceeds from the sale of affordable units; and/or any other funds collected in connection with *[insert municipal name]*'s affordable housing program in accordance with P.L.2008, c.46 (C. 52:27D-329.1 et al) and the regulations of COAH at N.J.A.C. 5:97-8.1 et seq. received from *[insert name of municipality]*. At no time shall the escrow agent commingle the funds deposited in the Account with any other funds or accounts held or maintained by the escrow agent, nor shall the escrow agent at any time set off any amount on deposit in the Account against (a) any indebtedness owed to the escrow agent by *[insert name of municipality]* or any other party, (b) any other obligation owed to the escrow agent by *[insert name of municipality]* or any other party, or (c) any claim which the escrow agent may have against *[insert name of municipality]* or any other party.

3. Application of Amounts on Deposit

The funds in the Account shall only be used for eligible affordable housing activities of *[insert name of municipality]* as set forth in a spending plan approved by COAH. The Bank shall disburse funds in the Account upon the direction of the *[insert title of municipal officer]* of *[insert name of municipality]*, unless notified otherwise by COAH.

4. Cessation of Disbursements from Funds and Forfeiture of Funds to the "New Jersey Affordable Housing Trust Fund" established pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320)

COAH shall have the authority to halt disbursements by *[insert name of municipality]* from the Account upon written notice to the Bank and to direct all remaining funds to the New Jersey Affordable Housing Trust Fund. COAH shall have such authority if it determines, after notice to *[insert name of municipality]*, that the municipality is not in compliance with all conditions set out in N.J.A.C. 5:97-8.13(a), the Spending Plan and the Development Fee Ordinance. Upon receipt of written notice to cease disbursements from the Account, the Bank shall immediately halt disbursements by *[insert name of municipality]* until further written notice from COAH. The Bank shall allow the transfer of funds by COAH to the New Jersey Affordable Housing Trust Fund on behalf of *[insert name of municipality]*. COAH shall provide the *[insert name of municipality]* municipal clerk and chief financial officer with copies of all written notices.

In the event that any of the following conditions, as set out in N.J.A.C. 5:97-8.13(a) occur, COAH shall be authorized on behalf of *[insert name of municipality]* and consistent with its rules and P.L.2008, c.46 (C. 52:27D-329.1 et al), to transfer all development fees; payments from developers in lieu of constructing affordable units on-site; developer-contributed funds to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached development accessible; rental income from municipally operated units; repayments from affordable housing program loans; recapture funds; proceeds from the sale of affordable units; and/or any other funds collected in connection with *[insert municipal name]*'s affordable housing program in accordance with P.L.2008, c.46 (C. 52:27D-329.1 et al) and the regulations of COAH at N.J.A.C. 5:97-8.1 et seq., to the New Jersey Affordable Housing Trust Fund:

- a. Failure to meet deadlines for information required by COAH in its review of a Housing Element and Fair Share Plan, development fee ordinance or plan for spending fees;
- b. Failure to address COAH's conditions for approval of a plan to spend development fees; payments from developers in lieu of constructing affordable units on-site; developer-contributed funds to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached development accessible; rental income from municipally operated units; repayments from affordable housing program loans; recapture funds; proceeds from the sale of affordable units; and/or any other funds collected in connection with *[insert municipal name]*'s affordable housing program within the deadlines imposed by COAH;
- c. Failure to address COAH's conditions for substantive certification within deadlines imposed by COAH;
- d. Failure to submit accurate annual monitoring reports pursuant to N.J.A.C. 5:97-8.12(a) within the time limits imposed by COAH;

- e. Failure to implement the Spending Plan and expend the funds within the time schedules specified in the Spending Plan, including the requirement to spend the remaining trust fund balance pursuant to N.J.A.C. 5:97-8.10(a)8 and collected fees pursuant to P.L.2008, c.46 (C.52:27D-329.2(8.d) & C.52:27D-329.3(9.b)) within four years;
- f. Expenditure of development fees; payments from developers in lieu of constructing affordable units on-site; developer-contributed funds to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached development accessible; rental income from municipally operated units; repayments from affordable housing program loans; recapture funds; proceeds from the sale of affordable units; and/or any other funds collected in connection with *[insert municipal name]*'s affordable housing program on activities not permitted by COAH;
- g. Revocation of certification; or
- h. Other good cause demonstrating that the revenues are not being used for the approved purpose.

5. Standard of Care; Indemnification

The Bank shall use reasonable care and due diligence in the performance of all of its duties hereunder. *[Insert name of municipality]* shall indemnify COAH and hold it harmless from and against all liabilities, losses or damages incurred under COAH with respect to any action COAH may take under this escrow agreement with the exception of liabilities, losses or damages solely caused by negligent acts, omissions, errors or willful misconduct by COAH.

6. Records and Accounts

The Bank shall keep accurate financial records and accounts of all transactions relating to the Account, including but not limited to all deposits to the Account, disbursements from the Account and interest earned on the Account which shall be made available for inspection by COAH and *[insert name of municipality]*, or their respective designees, at any reasonable time. *[Insert name of municipality]* shall provide COAH with reports on a quarterly basis, which set forth the amount, date and description of all activity from the Account as well as other information COAH may require to monitor the Account.

7. Notices

All notices, certificates or other communications hereunder shall be delivered by hand or mailed by certified mail to the parties at the following addresses:

a. If to COAH: New Jersey Council on Affordable Housing
101 South Broad Street
PO Box 813
Trenton, NJ 08625-0813

b. If to Municipality: Municipal Clerk and Chief Financial Officer
[insert address]

c. If to Bank:

[insert address]

Any of the parties may hereby designate different or additional addresses by notice in writing given to the other parties.

8. Further Assistance

The parties hereto shall authorize, execute, acknowledge and deliver such further resolutions, assurances and other instruments as may be necessary or desirable for better assuring, conveying, granting, assigning and confirming the rights and interests granted hereunder.

9. Agreement Subject to the Fair Housing Act

This agreement is subject to the Fair Housing Act, P.L.2008, c.46 (C. 52:27D-329,1 et al) and the rules of COAH set forth at N.J.A.C. 5:97-8.1 et seq., and nothing contained herein shall be interpreted to limit or restrict in any way the discretion and authority vested in COAH by the Act or rules.

10. Amendments

This agreement may not be amended, supplemented or modified except by a written instrument executed by all the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the date set forth above.

Date

[insert name], on behalf of [insert name of municipality]

Date

on behalf of the New Jersey Council
on Affordable Housing (COAH)

Date

[insert name], on behalf of [insert name of bank]

DRAFT AFFORDABLE HOUSING ORDINANCE

Ordinance No. _____
Affordable Housing Ordinance
Borough of New Providence, Union County

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE BOROUGH OF NEW PROVIDENCE TO ADDRESS THE REQUIREMENTS OF THE COURT AND THE COUNCIL ON AFFORDABLE HOUSING (COAH) REGARDING COMPLIANCE WITH THE BOROUGH'S PRIOR ROUND AND THIRD ROUND AFFORDABLE HOUSING OBLIGATIONS

BE IT ORDAINED by the governing body of the Borough of New Providence, Union County, New Jersey, that the Zoning Ordinance of the of the Borough of New Providence is hereby amended to include provisions addressing New Providence's constitutional obligation to provide for its fair share of low- and moderate-income housing, consistent with N.J.A.C. 5:97-1, et seq., as may be amended and supplemented, and N.J.A.C. 5:80-26.1, et seq., as may be amended and supplemented, and pursuant to the New Jersey Fair Housing Act of 1985. This Ordinance is intended to provide assurances that low and moderate income units ("affordable units") are created with controls on affordability over time and that low and moderate income households shall occupy these units. This Ordinance shall apply except where inconsistent with applicable law.

The New Providence Borough Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. The Fair Share Plan has been endorsed by the governing body. The Fair Share Plan describes the methods by which New Providence shall address its fair share for low and moderate income housing as determined by the court and documented in the Housing Element. This Ordinance implements and incorporates the Fair Share Plan and addresses the requirements of N.J.A.C. 5:97-1, et seq., as may be amended and supplemented. New Providence shall annually file a monitoring report with COAH delineating the status of the implementation of the Housing Element and Fair Share Plan and this report shall be available to the public at the New Providence Borough Hall, Borough Clerk's Office, 360 Elkwood Avenue, New Providence, New Jersey, 07974 and from COAH at P.O. Box 813, Trenton, New Jersey 08625-0813.

Section 1. Municipal Fair Share Obligation

The Borough of New Providence has a fair share obligation consisting a 19-unit rehabilitation share, a 54-unit Cycle I/Cycle II Realistic Development Potential obligation, an 81-unit Cycle I/Cycle II unmet need, and a 187-unit Cycle III growth share obligation based upon COAH's projections. However, the Borough's Fair Share Plan divides the 187-unit growth share estimated by COAH into two phases. Phase I is comprised of 33 units and spans the time period from January 1, 2004 through June 30, 2012. Phase II is comprised of 154 units and spans the time period from July 1, 2012 through December 31, 2018.

Section 2. Definitions

The following terms when used in this Ordinance shall have the meanings given in this Section:

"Administrative Agent" means the entity responsible for administering the affordability controls of this Ordinance with respect to the restricted (affordable housing) units, and designated as such pursuant to N.J.A.C. 5:80-26.14, as may be amended and supplemented.

"Affordability average" means the average percentage of median income at which restricted units in an affordable housing development are affordable to low- and moderate-income households.

"Affordable" means, in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as may be amended and supplemented.

"Affordable development" means a housing development all or a portion of which consists of restricted units.

"Agency" means the New Jersey Housing and Mortgage Finance Agency established by P.L. 1983, c. 530 (N.J.S.A. 55:14K-1, et seq.) that is in, but not of, the Department of Community Affairs of the State of New Jersey.

"Age-restricted unit" means a housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population such that: 1. all the residents of the development where the unit is situated are 62 years or older; or 2. at least 80 percent of the units are occupied by one person that is 55 years or older; or 3. the development has been designated by the Secretary of the U.S. Department of Housing and Urban Development as "housing for older persons" as defined in Section 807(b)(2) of the Fair Housing Act, 42 U.S.C. § 3607.

"Assisted living residence" means a facility that is licensed by the New Jersey Department of Health and Senior Services to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed for four or more adult persons unrelated to the proprietor and that offers units containing, at a minimum, one unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

"Certified household" means a household that has been certified by an Administrative Agent as a low-income household or moderate-income household.

"COAH" means the Council on Affordable Housing, which is in, but not of, the Department of Community Affairs of the State of New Jersey, that was established under the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301, et seq.).

"DCA" means the State of New Jersey Department of Community Affairs.

"Low-income household" means a household with a total gross annual household income equal to 50 percent or less of the median household income.

"Low-income unit" means a restricted unit that is affordable to a low-income household.

"Median income" means the median income by household size for the applicable county, as adopted annually by COAH.

"Moderate-income household" means a household with a total gross annual household income in excess of 50 percent but less than 80 percent of the median household income.

"Moderate-income unit" means a restricted unit that is affordable to a moderate-income household.

"Non-exempt sale" means any sale or transfer of ownership other than the transfer of ownership between husband and wife; the transfer of ownership between former spouses ordered as a result of a judicial decree of divorce or judicial separation, but not including sales to third parties; the transfer of ownership between family members as a result of inheritance; the transfer of ownership through an executor's deed to a class A beneficiary and the transfer of ownership by court order.

"Random selection process" means a process by which currently income-eligible households are selected for placement in affordable housing units such that no preference is given to one applicant over another except for purposes of matching household income and size with an appropriately priced and sized affordable unit (e.g., by lottery).

"Regional asset limit" means the maximum housing value in each housing region affordable to a four-person household with an income at 80 percent of the regional median as defined by COAH's adopted Regional Income Limits published annually by COAH.

"Rent" means the gross monthly cost of a rental unit to the tenant, including the rent paid to the landlord, as well as an allowance for tenant-paid utilities computed in accordance with allowances published by DCA for its Section 8 program. In assisted living residences, rent does not include charges for food and services.

"Restricted unit" means a dwelling unit, whether a rental unit or ownership unit, that is subject to the affordability controls of N.J.A.C. 5:80-26.1, as may be amended and supplemented, but does not include a market-rate unit financed under UHORP or MONI.

Section 3. Affordable Housing Programs

New Providence has determined that it will use the following programs to satisfy its affordable housing obligations:

1. A rehabilitation program
2. A Market to Affordable Program
3. Existing Inclusionary Zoning
4. Alternative Living Arrangements/Special Needs Facilities
5. 100% Affordable/Municipally Sponsored Developments

The following general guidelines apply to all developments that contain low and moderate-income housing units, including any currently unanticipated future developments that will provide low and moderate-income housing units.

Section 4. Rehabilitation

1. New Providence's rehabilitation program shall be designed to renovate deficient housing units occupied by low and moderate-income households such that, after rehabilitation, these units will comply with the New Jersey State Housing Code pursuant to N.J.A.C. 5:28. The rehabilitation program shall be divided into two segments, an owner occupancy rehabilitation program and a renter occupancy rehabilitation program.

2. New Providence hereby designates _____ as the Administrative Agent for both portions of its rehabilitation programs.

3. Both renter occupied and owner occupied units shall be eligible for rehabilitation funds.

4. All rehabilitated units shall remain affordable to low and moderate-income households for a period of 10 years or, in the case of owner occupied units, for the length of the lien placed upon the rehabilitated unit. For owner occupied units the control period will be enforced with a lien and for renter occupied units, the control period will be enforced with a deed restriction.

5. New Providence shall dedicate a minimum of \$12,000.00 for each rental unit to be rehabilitated through this program, with \$10,000 reflecting the minimum hard cost of rehabilitation for each unit and \$2000.00 reflecting the cost of the _____'s administrative services for each rental unit. The owner occupied units to be rehabilitated shall be rehabilitated by _____ via an Interlocal Services Agreement using outside sources of funding. The Borough of New Providence shall adopt a resolution committing to fund any shortfall in the rehabilitation programs for the Borough of New Providence.

6. The Administrative Agent shall provide a rehabilitation manual for the owner occupancy rehabilitation program, and the Borough of New Providence shall prepare and adopt by resolution of the governing body, a rehabilitation manual for the rental occupancy rehabilitation program to be administered by the Administrative Agent. Both rehabilitation manuals shall be available for public inspection in the Office of the Borough Clerk and at _____.

Section 5. Phasing Schedule for Inclusionary Zoning

In all zones that will contain both affordable housing and market rate housing units and/or market rate non-residential development, the following schedule shall be followed:

| Maximum Percentage of Market-Rate Units or Floor Area Completed | Minimum Percentage of Low- and Moderate-Income Units Completed |
|---|--|
| 25 | 0 |
| 25+1 | 10 |
| 50 | 50 |
| 75 | 75 |
| 90 | 100 |

Section 6. New Construction

A. Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:

1. The fair share obligation shall be divided equally between low- and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low income unit.

2. In each affordable development, at least 50 percent of the restricted units within each bedroom distribution shall be low-income units.

3. Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:

a. The combined number of efficiency and one-bedroom units shall be no greater than 20 percent of the total low- and moderate-income units;

b. At least 30 percent of all low- and moderate-income units shall be two bedroom units;

c. At least 20 percent of all low- and moderate-income units shall be three bedroom units; and

d. The remaining units may be allocated among two and three bedroom units at the discretion of the developer.

4. Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low- and moderate-income units

within the inclusionary development. The standard may be met by having all one bedroom units or by having a two bedroom unit for each efficiency unit.

B. Accessibility Requirements:

1. The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free SubCode, N.J.A.C. 5:23-7 and N.J.A.C. 5:97-3.14.

2. All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:

- a. An adaptable toilet and bathing facility on the first floor;
- b. An adaptable kitchen on the first floor;
- c. An interior accessible route of travel on the first floor;
- d. An interior accessible route of travel shall not be required between stories within an individual unit;
- e. An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and
- f. An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a, et seq.) and the Barrier Free SubCode, N.J.A.C. 5:23-7 and N.J.A.C. 5:97-3.14, or evidence that New Providence has collected funds from the developer sufficient to make 10 percent of the adaptable entrances in the development accessible:

1) Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.

2) To this end, the builder of restricted units shall deposit funds within the Borough of New Providence's affordable housing trust fund sufficient to install accessible entrances in 10 percent of the affordable units that have been constructed with adaptable entrances.

3) The funds deposited under paragraph f.2) above shall be used by the Borough of New Providence for the sole purpose of making the adaptable entrance of any affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.

4) The developer of the restricted units shall submit a design plan and cost estimate for the conversion from adaptable to accessible entrances to the Construction Official of the Borough of New Providence.

5) Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free Sub Code, N.J.A.C. 5:23-7 and N.J.A.C. 5:97-3.14, and that the cost estimate of such conversion is reasonable, payment shall be made to the Borough's affordable housing trust fund in care of the Borough Treasurer who shall ensure that the funds are deposited into the affordable housing trust fund and appropriately earmarked.

6) Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is site impracticable to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free Sub Code, N.J.A.C. 5:23-7 and N.J.A.C. 5:97-3.14.

C. Maximum Rents and Sales Prices:

1. New Providence hereby establishes that the maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60 percent of median income, and the average rent for restricted low- and moderate-income units shall be affordable to households earning no more than 52 percent of median income.

2. The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units, provided that at least 10 percent of all low- and moderate-income rental units shall be affordable to households earning no more than 35 percent of median income.

3. The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70 percent of median income, and each affordable development must achieve an affordability average of 55 percent for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different prices for each bedroom type, and low-income ownership units must be available for at least two different prices for each bedroom type.

Section 7. Utilities

A. Affordable units shall utilize the same type of heating source as market units within the affordable development.

B. Tenant-paid utilities that are included in the utility allowance shall be so stated in the lease and shall be consistent with the utility allowance approved by DCA for its Section 8 program.

Section 8. Occupancy Standards

A. Occupancy standards for affordable housing units shall be in accordance with N.J.A.C. 5:80-26.4, as may be amended and supplemented:

B. In determining the initial rents and initial sales prices for compliance with the affordability average requirements for restricted units other than assisted living facilities, the following standards shall be used:

1. A studio shall be affordable to a one person household;
 2. A one bedroom unit shall be affordable to a one and one-half person household;
 3. A two bedroom unit shall be affordable to a three person household;
 4. A three bedroom unit shall be affordable to a four and one-half person household;
- and
5. A four bedroom unit shall be affordable to a six person household.

C. For assisted living facilities, the following standards shall be used:

1. A studio shall be affordable to a one person household;
 2. A one-bedroom unit shall be affordable to a one and one-half person household;
- and
3. A two-bedroom unit shall be affordable to a two person household or to two one-person households.

D. In referring certified households to specific restricted units, to the extent feasible, and without causing an undue delay in occupying the unit, the Administrative Agent shall strive to:

1. Provide an occupant for each bedroom;
2. Provide children of different sex with separate bedrooms; and
3. Prevent more than two persons from occupying a single bedroom.

Section 9. Control Periods for Ownership Units and Enforcement Mechanisms

A. Control periods for ownership units shall be in accordance with N.J.A.C. 5:80-26.5, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this Ordinance until New Providence elects to release the unit from such requirements pursuant to action taken in compliance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, and prior to such an election, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented, for at least 30 years.

B. At the time of the first sale of the unit, the purchaser shall execute and deliver to the Administrative Agent a recapture note obligating the purchaser (as well as the purchaser's heirs,

successors and assigns) to repay, upon the first non-exempt sale after the unit's release from the requirements of this Ordinance, an amount equal to the difference between the unit's non-restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.

C. The affordability controls set forth in this Ordinance shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units. A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the unit meets all code standards upon the first transfer of title that follows the expiration of the applicable minimum control period provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

Section 10. Price Restrictions for Ownership Units, Homeowner Association Fees and Resale Prices

Price restrictions for ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, including:

A. The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95 percent of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28 percent of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.

B. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.

C. The master deeds of affordable developments shall provide no distinction between the condominium or homeowner association fees and special assessments paid by low- and moderate-income purchasers and those paid by market purchasers.

D. The owners of ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom.

Section 11. Buyer Income Eligibility

A. Buyer income eligibility for ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to 50 percent of

median income and moderate income ownership units shall be reserved for households with a gross household income less than 80 percent of median income.

B. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33 percent of the household's eligible monthly income.

Section 12. Control Periods for Rental Units.

A. Each restricted rental unit shall remain subject to the requirements of this Ordinance until New Providence elects to release the unit from such requirements, however, prior to such a municipal election, a restricted rental unit must remain subject to the requirements of this Ordinance for a period of at least 30 years.

B. Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Union. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.

C. A restricted rental unit shall remain subject to the affordability controls of this Ordinance, despite the occurrence of any of the following events:

1. Sublease or assignment of the lease of the unit;
2. Sale or other voluntary transfer of the ownership of the unit; or
3. The entry and enforcement of any judgment of foreclosure.

Section 13. Price Restrictions for Rental Units and Rent Increases; Leases

A. The initial rent for a restricted rental unit shall be approved by the Administrative Agent and shall be calculated so as not to exceed 30 percent of the eligible monthly income of the appropriate household size as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.

B. Rents may be increased annually based on the Housing Consumer Price Index for the United States, as published annually by COAH. Rents may not be increased more than once a year.

C. A written lease shall be required for all restricted rental units, except for units in an assisted living residence, and tenants shall be responsible for security deposits and the full

amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the Administrative Agent.

D. No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Administrative Agent.

E. Application fees (including the charge for any credit check) shall not exceed five percent of the monthly rent of the applicable restricted unit and shall be payable to the Administrative Agent to be applied to the costs of administering the controls applicable to the unit as set forth in this Ordinance.

Section 14. Tenant Income Eligibility

A. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:

1. Low-income rental units shall be reserved for households with a gross household income less than or equal to 50 percent of median income.

2. Moderate income rental units shall be reserved for households with a gross household income less than 80 percent of median income.

B. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a low-income household or a moderate-income household, as applicable to the unit; and the rent proposed for the unit does not exceed 35 percent (40 percent for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:

1. The household currently pays more than 35 percent (40 percent for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;

2. The household has consistently paid more than 35 percent (40 percent for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;

3. The household is currently in substandard or overcrowded living conditions;

4. The household documents the existence of assets with which the household proposes to supplement the rent payments; or

5. The household documents proposed third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.

C. The applicant shall file documentation sufficient to establish the existence of the circumstances in B.1. through B.5. above with the Administrative Agent, who shall counsel the household on budgeting.

Section 15. Municipal Housing Liaison

A. COAH requires New Providence to appoint a specific municipal employee to serve as a Municipal Housing Liaison responsible for administering the affordable housing program, including affordability controls, the Affirmative Marketing Plan, monitoring and reporting, and, where applicable, supervising any contracting Administrative Agent. New Providence shall adopt an Ordinance creating the position of Municipal Housing Liaison. New Providence shall adopt a Resolution appointing a Municipal Housing Liaison. The Municipal Housing Liaison shall be appointed by the governing body and may be a full or part time municipal employee. The Municipal Housing Liaison shall be approved by COAH and duly qualified before assuming the duties of Municipal Housing Liaison.

B. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for New Providence, including the following responsibilities which may not be contracted out to the Administrative Agent:

1. Serving as New Providence's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
2. Monitoring the status of all restricted units in New Providence's Fair Share Plan;
3. Compiling, verifying and submitting annual reports as required by COAH;
4. Coordinating meetings with affordable housing providers and Administrative Agents, as applicable; and
5. Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing as offered or approved by COAH.

C. Subject to approval by the Court, New Providence shall contract with the _____ to act as Administrative Agent and administer the affordable housing program in New Providence, except for those responsibilities which may not be contracted out as described above. The Administrative Agent shall have the responsibility to administer all aspects of New Providence's affordable housing program, including the affordability controls and Affirmative Marketing Plan, except for the rehabilitation programs, which shall be separately contracted to _____, and except for group homes, which shall be administered by their respective providers. The Municipal Housing Liaison shall supervise the contracting Administrative Agents.

Section 16. Administrative Agent for Newly Created Affordable Housing Units

A. The affordability controls set forth in this Ordinance shall be administered and enforced by the Administrative Agent. The primary responsibility of the Administrative Agent shall be to ensure that the restricted units are sold or rented, as applicable, only to low and moderate-income households.

B. The Administrative Agent shall create and shall publish in plain English, and in such other languages as may be appropriate to serving its client base, a written operating manual, as approved by COAH, setting forth procedures for administering the affordability controls, including procedures for long-term control of restricted units; for enforcing the covenants of N.J.A.C. 5:80-26.18, as may be amended and supplemented, and for releasing restricted units at the conclusion of the applicable control periods. The Administrative Agent shall have authority to take all actions necessary and appropriate to carrying out its responsibilities hereunder. The operating manual shall have a separate and distinct chapter or section setting forth the process for identifying applicant households seeking certification to restricted units, for reviewing applicant household eligibility and for certifying applicant households in accordance with the household certification and referral requirements set forth in N.J.A.C. 5:80-26.16, as may be amended and supplemented.

C. The Administrative Agent shall establish and maintain a ready database of applicant households as a referral source for certifications to restricted units, and shall establish written procedures to ensure that selection among applicant households be via the database, and in accordance with a uniformly applied random selection process and all applicable State and Federal laws relating to the confidentiality of applicant records.

D. The Administrative Agent shall have the authority to discharge and release any or all instruments, included in the Appendices of the Uniform Housing Affordability Controls (N.J.A.C. 5:80-26, as may be amended and supplemented), that have been filed of record to establish affordability controls.

Section 17. Affirmative Marketing Requirements

A. The affirmative marketing plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer or sponsor of affordable housing. The affirmative marketing plan is also intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward COAH Housing Region 1 and covers the period of deed restriction.

B. The affirmative marketing plan shall provide a regional preference for all households that live and/or work in COAH Housing Region 4, consisting of Mercer, Union, and Ocean Counties.

C. The municipality has the ultimate responsibility for the adopting the affirmative marketing plan and for the proper administration of the affirmative marketing program, including initial sales and rentals and resales and rerentals. The Administrative Agent designated by the Borough of New Providence shall assure the affirmative marketing of all affordable units.

D. In implementing the affirmative marketing plan, the Administrative Agent shall provide a list of counseling services to low and moderate income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

E. The affirmative marketing plan shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the affirmative marketing plan, the Administrative Agent shall consider the use of language translations.

F. The affirmative marketing process for available affordable units shall begin at least four months prior to the expected date of occupancy.

G. Applications for affordable housing shall be available in several locations, including, at a minimum, the County Administration Building and/or the County Library for each county within the housing region; the municipal administrative building, and the municipal library in the municipality in which the units are located; and the developer's rental office. Applications shall be mailed to prospective applicants upon request.

H. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer.

Section 18. Household Certification and Referral; Related Project Information

A. No household may be referred to a restricted unit, or may receive a commitment with respect to a restricted unit, unless that household has received a signed and dated certification and has executed a certificate.

B. The sources of income considered by the Administrative Agent shall be the types of regular income reported to the Internal Revenue Service and are those that are typically used for a mortgage loan approval.

C. If the applicant household owns a primary residence with no mortgage on the property valued at or above the regional asset limit as published annually by COAH, a certificate of eligibility shall be denied unless the applicant's existing monthly housing costs exceed 38 percent of the household's eligible monthly income.

D. The Administrative Agent shall employ a random selection process when referring households for certification to affordable units.

Section 19. Enforcement of Affordable Housing Regulations

A. Although New Providence shall delegate to its designated Administrative Agent the day-to-day responsibility for implementing practices and procedures designed to ensure effective compliance with the controls set forth in this Ordinance, the municipality has the ultimate responsibility for ensuring effective compliance with this Ordinance.

B. The Administrative Agent's practices and procedures shall include, but shall not necessarily be limited to, the following:

1. Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Administrative Agent.

2. Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates.

3. The posting annually in all rental properties, including two-family homes, of a notice as to the maximum permitted rent together with the telephone number of the Administrative Agent where complaints of excess rent can be made.

4. Notifying the owners of owner occupied units that the unit may be resold only to a household that has been approved in advance and in writing by the Administrative Agent.

5. Notifying the owners of owner occupied units that no sale of the unit shall be lawful unless approved in advance and in writing by the Administrative Agent, and that no sale shall be for a consideration greater than regulated maximum permitted resale price, as determined by the Administrative Agent.

6. Notifying the owners of owner occupied units that no refinancing, equity loan, secured letter of credit, or any other mortgage obligation or other debt secured by the unit may be incurred except as approved in advance and in writing by the Administrative Agent, and that at no time will the Administrative Agent approve any debt, if incurring the debt would make the total of all such debt exceed 95 percent of the then applicable maximum permitted resale price.

7. Notifying the owners of owner occupied units that the owner of the unit shall at all times maintain the unit as his or her principal place of residence, which shall be defined as residing at the unit at least 260 days out of each calendar year.

8. Notifying the tenants and owners of all restricted units that, except as set forth in N.J.A.C. 5:80-26.18(c)4vii, as may be amended and supplemented, at no time shall the owner or tenant of the unit lease or rent or sublease the unit to any person or persons, except on a short-term hardship basis as approved in advance and in writing by the Administrative Agent.

9. Notifying the tenants of restricted rental units that the maximum permitted rent chargeable to tenants of affordable units shall be as stated in the notice required to be posted in accordance with N.J.A.C. 5:80-26.18(d)3, as may be amended and supplemented, a copy of which shall be enclosed, and that copies of all leases for affordable rental units must be submitted annually to the Administrative Agent.

C. Banks and other lending institutions are prohibited from issuing any loan secured by owner-occupied real property subject to the affordability controls set forth in this Ordinance, if such loan would be in excess of amounts permitted by the restriction documents recorded in the deed or mortgage book in the county in which the property is located.

Section 20. Appeals

Appeals from all decisions of an Administrative Agent appointed pursuant to this Ordinance shall be filed in writing with the Court unless the Court delegates this responsibility to the Executive Director of COAH.

REPEALER

All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

EFFECTIVE DATE

This ordinance shall take effect upon passage and publication as provided by law.

ATTEST:

BOROUGH OF NEW PROVIDENCE

Wendy Barry, Borough Clerk

John Thoms, Mayor

Introduced: _____

Motion by: _____

Second by: _____

Introduction Roll Call:

Ayes:

Nayes:

Absent:

Adopted: _____

Motion by: _____

Second by: _____

Adoption Roll Call:

Ayes:

Nayes:

Absent:

| MEMBER | AYE | NAY | ABSTAIN | NO
VOTE | ABSENT |
|-------------|-----|-----|---------|------------|--------|
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| MAYOR (Tie) | | | | | |
| TOTAL | | | | | |

I hereby certify the foregoing to be a true copy of an ordinance adopted by the Mayor and
Borough Committee at a meeting held on _____, 2008.

Wendy Barry, Borough Clerk

Exhibit B

RESOLUTION
of the
BOROUGH OF NEW PROVIDENCE
Resolution No. 2008-234

Council Meeting Date: 06-30-2008 Date Adopted: 06-30-2008

TITLE: RESOLUTION COMMITTING TO PETITION WITH A THIRD ROUND AFFORDABLE HOUSING PLAN AND TO EXPEND AFFORDABLE HOUSING TRUST FUND MONIES ON THE DEVELOPMENT OF A HOUSING ELEMENT AND FAIR SHARE PLAN FOR THE BOROUGH OF NEW PROVIDENCE

Councilperson Hern submitted the following resolution, which was duly seconded by Councilperson MacDermott.

WHEREAS, on December 17, 2007, COAH proposed revised third round regulations that require municipalities with pending petitions to adopt a revised Housing Element and Fair Share Plan in conformance with the revised third round regulations and petition in accordance with the deadlines prescribed in the proposed procedural rules; and

WHEREAS, COAH's current regulations at N.J.A.C. 5:94-6.12(e), allow 20 percent of monies deposited in a municipal housing trust fund account to be expended on administrative costs, which includes, but is not limited to, consultant fees necessary to develop or implement a Housing Element and Fair Share Plan in accordance with COAH's proposed third round; and

WHEREAS, the Borough of New Providence petitioned the Council on Affordable Housing (the Council) for substantive certification of a third round Housing Element and Fair Share Plan on (date); and

WHEREAS, pursuant to N.J.A.C. 5:94-6.2(c), a municipality under the Council's jurisdiction shall not spend development fees unless the Council has approved a plan for spending such fees and until the municipality has received substantive certification or a judgment of compliance; and

WHEREAS, on March 25, 2008 the COAH issued a blanket waiver from N.J.A.C. 5:94-6.2(c) for municipalities with COAH approved development fee ordinances and an

established housing trust fund account to allow the expenditure of up to 20 percent of housing trust funds prior to the grant of certification and/or approval of a spending plan, on the cost of developing a revised Housing Element and Fair Share Plan in accordance with COAH's new third round rules; and

WHEREAS, the waiver issued by the Council requires that the Borough of New Providence shall pass a resolution stating the current balance in the municipal housing trust fund account and the amount proposed to be spent on developing a Housing Element and Fair Share Plan in accordance with COAH's proposed third round rules, shall not exceed 20 percent allowed for administrative costs.

NOW THEREFORE BE IT RESOLVED by the governing body of the Borough of New Providence, in the County of Union, State of New Jersey, that the Borough of New Providence commits to petition COAH for substantive certification of a newly adopted Housing Element and Fair Share Plan in accordance with COAH's new third round regulations; and

BE IT FURTHER RESOLVED that the borough of New Providence current balance in the municipal housing trust fund account is \$ 217,596.73 and the amount proposed to be spent on developing a Housing Element and Fair Share Plan in accordance with COAH's proposed third round rules \$43,500.00 which does not exceed the 20 percent allowed for administrative cost.

BE IT FURTHER RESOLVED that this resolution shall be submitted to COAH within seven days of the municipal governing body action.

APPROVED, this 30th day of June, 2008.

RECORD OF COUNCIL VOTE

| | AYE | NAY | ABSENT | NOT VOTING |
|------------|-----|-----|--------|------------|
| GENNARO | X | | | |
| HERN | X | | | |
| KELLER | | | X | |
| MACDERMOTT | X | | | |
| ROBINSON | X | | | |
| VENGROW | X | | | |

I hereby certify that the above resolution was adopted at a meeting of the Borough Council held on the 30th day of June, 2008.

Wendi B. Barry, Borough Clerk

I, Wendi B. Barry, Borough Clerk of the Borough of New Providence, County of Union and State of New Jersey, certify this to be a true copy of a resolution adopted by the Mayor and Borough Council at a regular meeting held on June 30, 2018.

Wendi B. Barry 7-2-15
Wendi B. Barry, Borough Clerk Date

UNION COUNTY SUPERIOR COURT
2 BROAD STREET
ELIZABETH NJ 07207

TRACK ASSIGNMENT NOTICE

COURT TELEPHONE NO. (908) 659-4810
COURT HOURS 8:30 AM - 4:30 PM

DATE: JULY 09, 2015
RE: NEW PROVIDENCE BORO OF VS COUNCIL ON AFFORD HOUSIN
DOCKET: UNN L -002442 15

THE ABOVE CASE HAS BEEN ASSIGNED TO: TRACK 4.

DISCOVERY IS PRESUMPTIVELY 450 DAYS BUT MAY BE ENLARGED OR SHORTENED BY THE
JUDGE AND RUNS FROM THE FIRST ANSWER OR 90 DAYS FROM SERVICE ON THE FIRST
DEFENDANT, WHICHEVER COMES FIRST.

THE MANAGING JUDGE ASSIGNED IS: HON KAREN M. CASSI

IF YOU HAVE ANY QUESTIONS, CONTACT TEAM 001
AT: (908) 659-4820.

UNN-L. 2442-15


IF YOU BELIEVE THAT THE TRACK IS INAPPROPRIATE YOU MUST FILE A
CERTIFICATION OF GOOD CAUSE WITHIN 30 DAYS OF THE FILING OF YOUR PLEADING.
PLAINTIFF MUST SERVE COPIES OF THIS FORM ON ALL OTHER PARTIES IN ACCORDANCE
WITH R.4:5A-2.

ATTENTION:


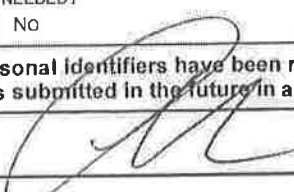
ATT: STEVEN A. KUNZMAN
DIPRANCESCO BATEMAN COLEY YOSP
15 MOUNTAIN BLVD
WARREN NJ 07059-5611

JUTAN

Appendix XII-B1

| | | | | |
|--|--|--|---|--|
|  | CIVIL CASE INFORMATION STATEMENT
(CIS)

Use for initial Law Division
Civil Part pleadings (not motions) under <i>Rule</i> 4:5-1
Pleading will be rejected for filing, under <i>Rule</i> 1:5-6(c),
 if information above the black bar is not completed
 or attorney's signature is not affixed | | FOR USE BY CLERK'S OFFICE ONLY
PAYMENT TYPE: <input type="checkbox"/> CK <input type="checkbox"/> CG <input type="checkbox"/> CA
CHG/CK NO.: _____
AMOUNT: _____
OVERPAYMENT: _____
BATCH NUMBER: _____ | |
| | ATTORNEY / PRO SE NAME
Steven A. Kunzman, Esq. | | TELEPHONE NUMBER
(908) 757-7800 | |
| | FIRM NAME (if applicable)
DiFrancesco, Bateman, Coley, Yospin, Kunzman, Davis, Lehrer & Flaum | | COUNTY OF VENUE
Union | |
| | OFFICE ADDRESS
15 Mountain Boulevard
Warren, NJ 07059 | | DOCKET NUMBER (when available)
UNNL-2442-15
DOCUMENT TYPE
Declaratory Judgment Complaint
JURY DEMAND <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | |
| NAME OF PARTY (e.g., John Doe, Plaintiff)
Plaintiff Borough of New Providence | | CAPTION
In the Matter of the Borough of New Providence for a Judgment of Compliance of its Third Round Housing Element and Fair Share Plan | | |
| CASE TYPE NUMBER
(See reverse side for listing)

303 | HURRICANE SANDY RELATED?
<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO | IS THIS A PROFESSIONAL MALPRACTICE CASE? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
IF YOU HAVE CHECKED "YES," SEE N.J.S.A. 2A:53 A -27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT. | | |
| RELATED CASES PENDING?
<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO | | IF YES, LIST DOCKET NUMBERS | | |
| DO YOU ANTICIPATE ADDING ANY PARTIES
(arising out of same transaction or occurrence)?
<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO | | NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY (if known)
<input type="checkbox"/> NONE <input checked="" type="checkbox"/> UNKNOWN | | |
| THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE. | | | | |
| CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION | | | | |
| DO PARTIES HAVE A CURRENT, PAST OR RECURRENT RELATIONSHIP?
<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO | | IF YES, IS THAT RELATIONSHIP:
<input type="checkbox"/> EMPLOYER/EMPLOYEE <input type="checkbox"/> FRIEND/NEIGHBOR <input type="checkbox"/> OTHER (explain)
<input type="checkbox"/> FAMILIAL <input type="checkbox"/> BUSINESS | | |
| DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO | | | | |
| USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION | | | | |
|  DO YOU OR YOUR CLIENT NEED ANY DISABILITY ACCOMMODATIONS?
<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO | | IF YES, PLEASE IDENTIFY THE REQUESTED ACCOMMODATION | | |
| WILL AN INTERPRETER BE NEEDED?
<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO | | IF YES, FOR WHAT LANGUAGE? | | |
| I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with <i>Rule</i> 1:38-7(b). | | | | |
| ATTORNEY SIGNATURE:  | | | | |

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100