

MAY 23 1990

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MEMORANDUM OF AGREEMENT  
Between  
THE NEW JERSEY PINELANDS COMMISSION  
and  
THE NEW JERSEY COUNCIL ON AFFORDABLE HOUSING

## I. Purpose

The purpose of this agreement is to ensure that the policies and standards adopted by the New Jersey Pinelands Commission (Commission) pursuant to the Pinelands Protection Act, N.J.S.A. 13:18A-1 et seq., and the Council on Affordable Housing (Council), pursuant to the Fair Housing Act, N.J.S.A. 52:27D-301 et seq., are administered in a manner which:

- A. recognizes the authorities of each agency under its enabling legislation;
- B. promotes consistency between the standards and procedures of each program;
- C. preserves the voluntary nature of municipal participation in the Fair Housing Act certification program;
- D. establishes clear direction to municipalities as to how the programs of the Council and Commission will be administered.

## II. Applicability

- A. This agreement applies to all affordable housing programs, developed by municipalities located wholly or partly within the Pinelands Area.
- B. Pursuant to N.J.A.C. 5:92-1.1 et seq., prospective need shall apply to Regional Growth or Pinelands Town Areas as defined in the Pinelands Comprehensive Management Plan, N.J.A.C. 7:50-1.1 et seq.

## III. Mutual Agreements

- A. It is mutually agreed and understood that the New Jersey Pinelands Commission:
  - 1) has the sole discretion and authority to identify and promulgate land use standards,

development standards, and permit review procedures pursuant to the Pinelands Protection Act.

- 2) has the sole discretion and authority to determine that all Pinelands Area municipal master plans and land use ordinances, and all elements thereof, are consistent with the standards of the Pinelands Comprehensive Management Plan.
- 3) recognizes that municipalities throughout the State, including those within the Pinelands Area, have an obligation to provide opportunities for affordable housing.

B. It is mutually agreed and understood that the Council on Affordable Housing:

- 1) has the sole discretion and authority to determine that housing elements and fair share plans prepared and submitted by municipalities or referred by the courts to the Council for review pursuant to N.J.S.A. 52:27D-301 et seq., N.J.A.C. 5:91-1.1 et seq., and 5:92-1.1 et seq., meet the affordable housing standards contained therein.
- 2) has determined that, in order to receive substantive certification pursuant to N.J.S.A. 52:27D-301 et seq., N.J.A.C. 5:91-1.1 et seq., and 5:92-1.1 et seq., all municipalities must plan to accommodate their present and prospective need for low and moderate income housing.
- 3) has determined that prospective need within the Pinelands Area shall apply to those municipalities with designated Pinelands Regional Growth and Town management areas.

#### IV. Responsibility of the Commission and The Council

A. The Pinelands Commission shall:

- 1) permit Pinelands Area municipalities to seek substantive certification of the Council on a voluntary basis prior to obtaining certification by the Pinelands Commission pursuant to N.J.A.C. 7:50-3;
- 2) in those cases where the municipality has chosen to comply with the Fair Housing Act,

N.J.S.A. 52:27D-301 et seq., consider for certification pursuant to N.J.A.C. 7:50-3 those housing elements, fair share plans, and associated land use ordinances which have received Council certification pursuant to N.J.S.A. 52:27D-301 et seq., N.J.A.C. 5:91-1 et seq., and 5:92-1.1 et seq. conditioned upon receiving Pinelands certification;

- 3) accept the Council's substantive certification with respect to affordable housing provisions in so far as it does not otherwise contravene the standards of the Comprehensive Management Plan;
- 4) adopt and enforce standards for Regional Growth Areas and Pinelands Towns which do not limit municipalities' opportunities to plan for affordable housing in so far as those plans are otherwise consistent with the land use and environmental standards of the Comprehensive Management Plan.
- 5) notify each Pinelands Area municipality that the Commission, pursuant to the Council's procedural rules in N.J.A.C. 5:91-1.1 et seq., is an interested party and shall be provided with copies of any draft and proposed housing element and fair share plan submitted to the Council for substantive certification;
- 6) provide to the Council preliminary comments of the Commission's Executive Director as to a housing element's and fair share plan's consistency with the Pinelands Comprehensive Management Plan prior to formal Council action on any such element and plan submitted to it for certification;
- 7) afford to the Council and its staff an opportunity to comment on any housing element, fair share plan, and associated ordinances which the Commission is considering for certification;
- 8) provide to the Council a copy of its order to certify, certify with conditions, or disapprove certification of any such ordinance submitted to the Commission for certification;
- 9) provide to the Council any information which comes to the Commission's attention as

a result of the local permit notification and review procedures of N.J.A.C. 7:50-4, Part III which indicates that a certified municipal housing element and fair share plan are not being followed; and

- 10) in those cases where the housing element and fair share plan of a municipality located partially within the Pinelands Area indicates that the element and plan will have no effect upon the Pinelands, notify the Council in writing within 45 days of such municipality's petition for Substantive Certification that Commission certification is not necessary.

B. The Council on Affordable Housing shall:

- 1) receive and review the comments of the Commission's Executive Director which will be forwarded pursuant to IV (a) (6) of this agreement within 45 days of a municipality's petition for Substantive Certification.
- 2) in a Pinelands municipality whose housing and fair share plan indicates an impact upon the Pinelands Area, condition its grant of substantive certification upon the municipality receiving Pinelands certification. In the event a municipality partly within the Pinelands petitions for substantive certification and presents a housing element and fair share plan which does not in any way affect the Pinelands Area, the Council will not condition its grant of substantive certification upon Pinelands certification.
- 3) upon receipt of Pinelands certification, the Council will grant substantive certification to the municipality, assuming all other conditions and/or requirements have been met.
- 4) provide the Commission with a copy of its grant or denial of substantive certification or its conditions for the grant of substantive certification.

V. Effective Date and Duration

- A. This agreement shall take effect upon signature of duly authorized representatives of both parties and shall remain in effect until otherwise amended or terminated.

B. This agreement may be amended by mutual consent of both parties and may be terminated by either party upon 30 days written notice.

VI. Signatures

*Terence O'Hare*  
New Jersey Pinelands  
Commission  
3/30/90  
Date

*Dough Gubb*  
Council on Affordable  
Housing  
5/17/90  
Date

Approved as to form only:

ATTORNEY GENERAL

By: *J. Madal*  
Deputy Attorney General

By: *Donald Falanga*  
Deputy Attorney General