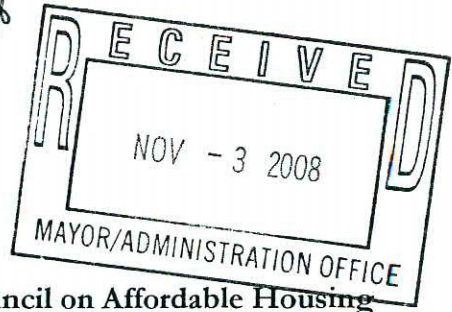




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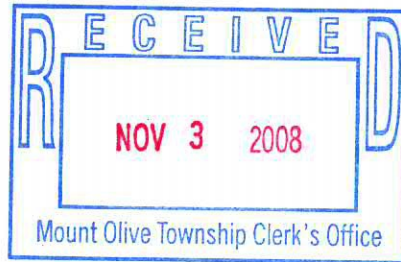
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JOSEPH V. DORIA JR.
Commissioner
LUCY VANDENBERG
Executive Director



October 31, 2008

Re: **Executive Order 114**

Dear Highlands Mayor:

On July 17, 2008, the Highlands Council adopted the Highlands Regional Master Plan and on the same day the Fair Housing Act was amended by P.L. 2008, Chapter 46, to create a responsibility for the Highlands Council to identify and coordinate opportunities for affordable housing on a regional basis. Recognizing the need for both COAH and the Highlands Council to coordinate the planning objectives of both agencies, Governor Corzine issued Executive Order 114 on September 5, 2008. Executive Order 114 directs the Highlands Water Protection and Planning Council (Highlands Council) to work cooperatively with the Council on Affordable Housing (COAH), the Department of Environmental Protection (NJDEP) and the Department of Community Affairs (DCA) to address affordable housing in the Highlands Region.

Overview of Executive Order 114

Specifically, the Order requires the Highlands Council to review COAH's third round growth projections for consistency with the Highlands Regional Master Plan. Thereafter, the Council must assist COAH in developing adjusted growth projections within the Highlands Region, consistent with the Regional Master Plan, to be utilized by municipalities that conform to the Plan. The Order requires the Highlands Council to identify sites and opportunities for affordable housing in accordance with the recently enacted amendments to the Fair Housing Act, P.L. 2008, Chapter 46. In addition, the Order requires that the Council preserve scarce land, water, and sewer resources and dedicate these resources on a priority basis for the production of affordable housing consistent with the Highlands Plan, and provide priority review for proposed affordable housing projects. The Order also requires the Highlands Council and COAH to enter into a Memorandum of Understanding (MOU) as soon as possible, but no later than November 4, 2008. Lastly, the Order requires the coordination of the deadlines for revision of municipal master plans and third round fair share plans for Highlands municipalities seeking to be in conformance with both the Highlands Act



and the Fair Housing Act including a reasonable extension of deadlines. The focus of this letter is to address the process for the reasonable extension of these deadlines.

Process for the extension of deadlines

The Highlands Council and COAH have agreed to a MOU that specifies a process for the reasonable extension of these deadlines for all Highlands municipalities seeking to conform to the Regional Master Plan. The complete MOU is enclosed with this letter and is also available on the websites of both the Highlands Council (see <http://www.highlands.state.nj.us>) and COAH (<http://www.state.nj.us/dca/coah>). The specific requirements for obtaining an extension are set forth below.

Presently, COAH's regulations have established a December 31, 2008 deadline for municipalities under COAH's jurisdiction to submit revised Housing Elements and Fair Share Plans. The Regional Master Plan, which became effective on September 8, 2008, requires that conforming municipalities implement both the Plan's resource protection requirements along with constitutional obligation to provide a realistic opportunity for affordable housing and requires that municipalities, consistent with the Fair Housing Act, either petition COAH for a substantive certification or institute an action for declaratory judgment granting it repose in the Superior Court. For municipalities with lands in the Preservation Area, the Highlands Act specifies that Plan Conformance petitions be submitted on or before December 8, 2009. In order to coordinate these regulatory and statutory deadlines, the Highlands Council and COAH have agreed to a specific process in the MOU for Highlands municipalities seeking to conform to the Regional Master Plan.

The MOU details the process for Highlands municipalities that may be in one of the following three categories: 1) Highlands municipalities under COAH's jurisdiction, 2) Highlands municipalities under the jurisdiction of the Superior Court, and 3) Highlands municipalities not under either COAH's jurisdiction or the jurisdiction of the Superior Court. For each of the three categories of Highlands municipalities, the MOU requires the filing of a Notice of Intent to conform to the Regional Master Plan. The Highlands Council's Plan Conformance Guidelines (see http://www.highlands.state.nj.us/njhighlands/master/highlands_plan_conformance_guidelines.pdf) specify that a municipality may formally declare its intention to conform to the Regional Master Plan through the adoption of a Notice of Intent resolution. A sample resolution is included in this letter and is also available under the October 7, 2008 correspondence to Highlands municipalities (see <http://www.highlands.state.nj.us/njhighlands/implementation/plan>).

The specific language from the MOU for the three categories of Highlands municipalities is set forth below:


1. **Highlands municipalities under COAH's jurisdiction** - COAH shall grant a waiver from the December 31, 2008 deadline to December 8, 2009 for any municipality under COAH's jurisdiction that, before December 31, 2008: 1) submits a duly adopted Notice of Intent in accordance with the Highlands Council's Plan Conformance Guidelines; and 2) submits a duly adopted resolution notifying COAH of its intent to petition COAH no later than December 8, 2009.

2. **Highlands municipalities under the jurisdiction of the Superior Court** - For any municipality under the jurisdiction of the Superior Court, the Highlands Council shall support a municipal motion for an extended judgment of repose where the municipality submits a duly adopted Notice of Intent in accordance with the Highlands Council's Plan Conformance Guidelines.

3. **Highlands municipalities not under either COAH's jurisdiction or the jurisdiction of the Superior Court** - For any municipality not under COAH's jurisdiction or the jurisdiction of the Superior Court, the municipality may submit at any time a filing pursuant to N.J.A.C. 5:96-2.1 which shall provide a municipality with two years to petition or a petition pursuant to N.J.A.C. 5:96-3.1; however, where such a municipality seeks to achieve conformance with the RMP, including utilization of adjusted growth projections in its petition pursuant to this MOU, it must submit a duly adopted Notice of Intent in accordance with the Highlands Council's Plan Conformance Guidelines by February 1, 2009, and submit a petition to COAH, no later than December 8, 2009.

To provide adequate time for municipalities under the jurisdiction of both agencies, COAH anticipates acting on a resolution at its next Council meeting on November 12, 2008, that extends the deadline for submitting a petition for third round substantive certification from December 31, 2008 until December 8, 2009 for the Highlands municipalities under COAH's jurisdiction that submit the two resolutions described in #1 above. Municipalities seeking to avail themselves of this extension must submit both resolutions to COAH on or before noon on December 31, 2008. A model resolution extending the deadline to petition for substantive certification is enclosed and is also available at www.nj.gov/dca/coah/highlands.shtml. Additional resources are available for all municipalities seeking to participate in the COAH process at www.nj.gov/dca/coah/round3resources.shtml.

The Highlands Council and COAH look forward to working together with you to implement Executive Order 114, which safeguards the clean drinking water supply for New Jersey's residents while providing for the constitutional obligation to provide affordable housing opportunities.



Lucy Vandenberg, Executive Director
Council on Affordable Housing



Eileen Swan, Executive Director
Highlands Water Protection and Planning Council

Enc.

