

TOWNSHIP OF EVESHAM

ORDINANCE 6-1-98

**AMENDING THE FAIR SHARE PLAN
OF THE TOWNSHIP OF EVESHAM BY
AUTHORIZING USE OF REGIONAL CONTRIBUTION
AGREEMENTS ("RCAs") FOR THE
RIDINGS AT MAYFAIR**

WHEREAS, the Township Council of the Township of Evesham is interested in satisfying its obligations under the Fair Housing Act, N.J.S.A. 52:27D-301 et seq which requires that the Township provide for low and moderate income housing units within its housing region; and

WHEREAS, the Evesham Township Planning Board and Evesham Township Council have determined that due to certain environmental constraints, current market demands and other factors affecting the viability of the current zoning proposed in the March, 1993 Housing Element/Fair Share Plan, the provision of the requisite number of units proposed for development on each of the affordable housing sites is unlikely; and

WHEREAS, the Evesham Township Planning Board has adopted an Amendment to the Housing Element to the Evesham Township Master Plan and an Amendment to the Evesham Township Fair Share Plan; and

WHEREAS, pursuant to a certain Judgment of Repose entered by the Superior Court, Law Division, under Docket No. BUR-L-2527-89 captioned Artdor Realty Company vs. Evesham Township, et al, Evesham Township was required to apply to the Superior Court for any amendments to the existing Master Plan Housing Element/Fair Share Plan; and

WHEREAS, the Township Council of the Township of Evesham has reviewed the conditions of approval for the Ridings at Mayfair development, wherein the applicant, Paparone Homes of New Jersey, agreed to provide twelve (12) low and moderate income units upon the property in question, or buy down twelve (12) off-tract moderate income units prior to the latter of one of the following events occurring: a) the issue of a Certificate of Occupancy for the 200th unit of single family residential dwellings to be constructed upon the property in question, or b) within ninety (90) days of the date of the approval by the Superior Court of an amendment to the Evesham Township Housing Element to permit the use of Regional Contribution Agreements (RCAs) for this project or a decision by the Evesham Township Planning Board and Township

Council not to accept RCAs for this project; and

WHEREAS, Paparone Homes of New Jersey has posted the appropriate letter of credit in order to fund the RCA.

NOW, THEREFORE, BE IT ORDAINED, by the Township Council of the Township of Evesham, County of Burlington, State of New Jersey, as follows:

Section 1. The Township Council of the Township of Evesham hereby permits the use of Regional Contribution Agreements (RCAs) for the Ridings at Mayfair within 90 days of the date of the approval by the Superior Court of an amendment to the Evesham Township Housing Element.

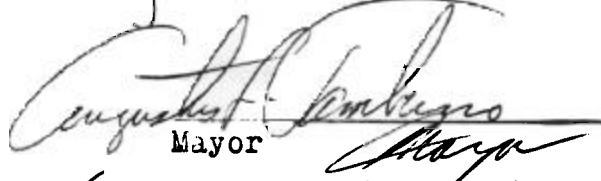
Section 2. All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

Section 3. If any section, paragraph, subdivision, clause or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision and the remainder of this ordinance shall be deemed valid and effective.

Section 4. This Ordinance shall become effective upon final passage and publication according to law.

Adopted on second and final reading on

January 6, 1998


Mayor

Attest Carmela Bonfuso
Clerk

Burlington County (hereinafter referred to as "the Court"). The twelve (12) units at issue herein when added to the forty (40) units covered by a RCA executed between the parties on February 11, 1996 (which RCA represents Evesham's only other participation as a sending municipality and Gloucester City's only other participation as a receiving municipality) total substantially less than fifty percent (50%) of Evesham's fair share obligation. The **Receiving Municipality** agrees to apply the funds to be paid to it hereunder so as to create or rehabilitate at least twelve (12) low and moderate income housing units in accordance with the terms set forth in Article 2.1. At least fifty percent (50%) of these units will be affordable to low income households as that term is defined in the Council of Affordable Housing's (hereinafter referred to as "COAH") Regional Income Table as of 4/12/95 or any amendments thereto. In the case of scattered site rehabilitation of occupied units, the **Receiving Municipality** will ensure, as best as practicable, that fifty percent (50%) of the rehabilitated units are occupied by low income households.

Article 2. SENDING MUNICIPALITY'S RESPONSIBILITIES

The **Sending Municipality** agrees to pay, and the **Receiving Municipality** agrees to accept, the sum of Twenty Thousand Dollars (\$20,000.00) per unit transferred, the total value of the within RCA being \$240,000.00. Said funds shall inure to the **Sending Municipality** in the context of the build out by Paparone Homes of New Jersey of 300 detached, single family homes on a parcel in Evesham Township that was included in the original Evesham Township Fair Share Plan as a site providing voluntary proffers of twelve (12) moderate income units. (Block 13, Lots 1B, 2, 3 and 4 on the Evesham Township Tax Map, originally referred to as the Meadowbrook Run development.)

2.1. Payment in the amount of \$240,000.00 shall be made to The City of Gloucester City within 30 days of issuance of all applicable approvals on the RCA, inclusive of those issued by the Court, the Camden County Planning Board, the New Jersey Housing and Mortgage Finance Agency and COAH.

The above referenced payment is the responsibility of the **Sending Municipality** and will be paid regardless of the availability of the funding source. The **Sending Municipality's** performance hereunder shall be guaranteed by an Irrevocable Unconditional Letter of Credit posted by Paparone Homes of New Jersey in the amount of \$240,000.00 drawn on a New Jersey financial institution in a form satisfactory to the **Sending Municipality**, the **Receiving Municipality**, COAH, and, if he should so determine, the Mount Laurel Judge overseeing Evesham's Fair Share Plan or his designee (hereinafter referred to as the "Court").

2.3. The parties acknowledge that a portion of the **Sending Municipality's** payment to the **Receiving Municipality** may be utilized by the **Receiving Municipality** to defray costs of administration as allowed by COAH's rules and other reasonable and necessary expenses, including the cost of infrastructure, incurred by the **Receiving Municipality** in connection with this Agreement and that said amount is within COAH guidelines for such costs.

The **Sending Municipality** shall prepare and/or cooperate with and assist the **Receiving Municipality** in preparing for review and formal action and approval by COAH all of the documentation delineated in N.J.S.A. 52:27D-312 as submissions

prerequisite to approval of an RCA. Such documentation shall include, but shall not be limited to, the following:

(a) Completion of a RCA County Review Checklist and evidence of approval of same by the Camden County Planning Board. Any submission to the Camden County Planning Board shall include copies of the **Sending Municipality's** Master Plan and Zoning Ordinance.

(b) Development of a Project Plan for the **Receiving Municipality** and evidence of approval of same by the New Jersey Housing and Mortgage Finance Agency.

(c) Execution of a Regional Contribution Agreement between Evesham Township as **Sending Municipality** and The City of Gloucester City as **Receiving Municipality** and evidence of approval of the terms of same by COAH.

(d) Documentation evidencing COAH's review and approval of the **Receiving Municipality's** Project Plan.

Article 3. RECEIVING MUNICIPALITY RESPONSIBILITIES

The **Receiving Municipality** shall prepare and/or cooperate with and assist the **Sending Municipality** in preparing for review and formal action and approval by COAH all of the documentation delineated in N.J.S.A. 52:27D-312 as submissions prerequisite to approval of an RCA. Such documentation shall include, but shall not be limited to, the following:

(a) Completion of a RCA County Review Checklist and evidence of approval of same by the Camden County Planning Board. Any submission to the Camden County

Planning Board shall include copies of the **Receiving Municipality's** Master Plan and Zoning Ordinance.

(b) Development of a project plan for the **Receiving Municipality** and evidence of approval of same by the New Jersey Housing and Mortgage Finance Agency. The project plan will have as its aim the implementation and achievement of the purpose of the RCA, which purpose is acknowledged by all parties to be the provision of a realistic opportunity for low and moderate income housing within the **Receiving Municipality**, convenient to employment opportunities, in a manner that is consistent with sound regional planning.

(c) Execution of a Regional Contribution Agreement between Evesham Township as **Sending Municipality** and The City of Gloucester City as **Receiving Municipality** and evidence of approval of the terms of same by COAH.

(d) Documentation evidencing COAH's review and approval of the **Receiving Municipality's** Project Plan.

3.1. The **Receiving Municipality** will apply to all appropriate agencies for all governmental approvals, whether municipal, county or state. The **Sending Municipality** shall cooperate with the **Receiving Municipality** in the preparation of said applications and shall participate, at its own expense, in whatever applications or requests for approval are prosecuted by the **Receiving Municipality** in furtherance of this RCA. The **Sending Municipality** represents that it has previously obtained Court approval of its Housing Element as provided under the Fair Housing Act.

3.2. The **Receiving Municipality** may apply for any appropriate grants in aid which may be available. Any monies realized through such grants will not affect the amount of the **Sending Municipality's** contribution.

The fund contributed by the **Sending Municipality** will be utilized by the **Receiving Municipality** for rehabilitation of existing low and moderate income units, which activity is an eligible housing activity under COAH's regulations.

3.4. For scattered site rehabilitation of occupied units, the **Receiving Municipality** represents that it will expend a minimum average of \$16,000.00 per unit for hard costs.

The **Receiving Municipality** will prepare and submit all monitoring reports required by the Court and/or COAH in a timely manner.

The **Receiving Municipality** will establish a separate interest bearing escrow account for all monies received pursuant to the within RCA, interest to accrue to the benefit of the **Receiving Municipality**.

All interest generated by RCA funds and retained by the **Receiving Municipality** shall be expended exclusively for eligible housing activities under COAH's rules and may not be used to exceed the twenty percent (20%) cap on administration referenced in Article 3.4.

Any material change or amendment in the project plan prepared by the **Receiving Municipality** subsequent to approval of the within RCA must be submitted by the **Receiving Municipality** to COAH for a determination as to whether a new feasibility analysis and approval is required or a review is required by the New Jersey Housing and

Mortgage Finance Agency or any regulatory body determined to have jurisdiction by COAH.

3.9. It is agreed that the **Receiving Municipality's** obligations pursuant to this Article are not limited to the above. The **Receiving Municipality** agrees that it will complete the project pursuant to this Agreement in accordance with the directives of the Court and/or the regulations of COAH.

3.10. The **Receiving Municipality** agrees to designate an administrative entity to assure that the applicable affordability controls will be maintained over time.

Article 4. CREDIT TO HOUSING OBLIGATION

The **Receiving Municipality** agrees that it will not claim credit toward its own housing obligation for any low or moderate income RCA units, as defined by the Fair Housing Act, but that all such credit will inure to the benefit of the **Sending Municipality**. All RCA units will be permanently identified in the appropriate records of the **Receiving Municipality** as having been rehabilitated or created to meet the fair share housing obligation of the **Sending Municipality**.

Article 5. EXCESS FUNDS

Transferred funds in excess of the amount necessary to implement this Agreement may be retained by the **Receiving Municipality** provided said funds are used exclusively to produce additional low or moderate income housing units or for a capital expenditure ancillary to or benefitting low or moderate income households. All interest generated must remain in the housing trust fund mandated by Article 3.6 until expended on an eligible

housing activity. The specific use of excess funds is subject to COAH's approval and will require the following:

- a. a brief description of the project including the number of units;
- b. total development costs and breakdown of financing;
- c. amount of funds to be expended;
- d. estimated start date;
- e. projected date of completion; and
- f. balance of funds in the RCA account(s).

Application for such approval shall be made and prosecuted pursuant to the procedural rules set down by COAH.

Article 6. CONTINGENCIES

This Agreement is contingent on successful completion of the following:

- a. Approval of this RCA by the **Sending Municipality's** governing body by adoption of an appropriate Ordinance.
- b. Court and COAH approval of this RCA and an enabling Ordinance by the **Sending Municipality** to permit this RCA, after notice to all parties to the existing Builder's Remedy action initiated by Artdor Realty, Inc. against Evesham Township, et al as resolved by Order of Repose dated October 13, 1993.
- c. Approval of this RCA by the **Receiving Municipality's** governing body by adoption of an appropriate Ordinance.
- d. Issuance of a Letter of Credit in a form substantially in compliance with the parameters outlined in Article 2.2.

- e. Any and all other requirements set down by the Court and/or COAH as conditions precedent to this RCA.

Article 7. EFFECTIVE DATE

This Agreement is considered a contractual agreement and will become effective upon the approval of the Court and COAH. This Agreement will be executed no later than thirty (30) days after approval by the Court.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals, the month, day and year first above written.

ATTEST

THE CITY OF GLOUCESTER CITY

BY: _____
HON. ROBERT T. GORMAN, MAYOR

EVESHAM TOWNSHIP

BY: _____
HON. AUGUSTUS TAMBURRO, MAYOR