

RESOLUTION OF THE HOUSING AUTHORITY OF THE CITY OF RAHWAY

RESOLUTION NO. 1614

DATE OF ADOPTION: September 10, 2020

SUBJECT: RESOLUTION AUTHORIZING THE RAHWAY HOUSING AUTHORITY TO PROVIDE LEGAL COUNSEL AND INDEMNIFICATION FOR OFFICIALS, EMPLOYEES AND APPOINTEES OF THE HOUSING AUTHORITY IN CERTAIN ACTIONS BROUGHT AGAINST SAID OFFICIALS, EMPLOYEES AND APPOINTEES

THE FOLLOWING RESOLUTION was presented by the Executive Director/Secretary at a Regular Meeting held on September 10, 2020:

WHEREAS, the Rahway Housing Authority has determined that it is in the best interest of the Authority and the efficient operation of the Authority to implement indemnification for officials, employees and appointees of the Authority pursuant to State Law.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Rahway Housing Authority as follows:

Except as hereinafter provided, the Rahway Housing Authority, hereinafter known as the Housing Authority shall, upon the request of any present or former official, employee or appointee of the Housing Authority provide for indemnification and legal defense of any civil action brought against said person or persons arising from an act or omission falling within the scope of their public duties.

Pursuant to 59:10-4, the indemnification and defense provided for in this resolution shall include exemplary or punitive damages resulting from the employee's civil violation of State or Federal Law if, in the opinion of the Board of Commissioners of the Rahway Housing Authority the acts committed upon which the damages are based did not constitute actual fraud, actual malice, willful misconduct or an intentional wrong.

The terms of this resolution and the definition of official, employee and appointee are to be construed liberally in order to effectuate the purposes of this ordinance except that these terms shall not mean a) any person who is not a natural person; b) any person while providing goods or services of any kind

under any contract with the Housing Authority except an employment contract; c) any person while providing legal or engineering services for compensation unless said person is a full-time employee of the Housing Authority; and d) any person who as a condition of his or her appointment or contract is required to indemnify and defend the Housing Authority and/or secure insurance.

The Housing Authority shall provide for defense of and indemnify any present or former official, employee or appointee of the Housing Authority who becomes a defendant in a civil action if the person or persons involved a) acted or failed to act in a matter in which the Housing Authority has or had an interest; b) acted or failed to act in the discharge of a duty imposed or authorized by law; and c) acted or failed to take action in good faith. For purposes of this ordinance, the duty and authority of the Housing Authority to defend and indemnify shall extend to a cross-claim or counterclaim against said person.

In any other action or proceeding, including criminal proceedings, the Housing Authority may provide for the defense of a present or former official, employee or appointee, if the Board of Commissioners of the Rahway Housing Authority concludes that such representation is in the best interest of the Housing Authority and that the person to be defended acted or failed to act in accord with the standards set forth in this ordinance.

Whenever the Housing Authority provides for the defense of any action set forth herein and as a condition of such defense, the Housing Authority may assume exclusive control over the representation of such persons defended and such person shall cooperate fully with the Housing Authority.

The Housing Authority may provide for the defense pursuant to this Resolution by authorizing its attorney to act in behalf of the person being defended or by employing other counsel for this purpose or by asserting the right of the Housing Authority under any appropriate insurance policy that requires the insurer to provide defense.

BE IT FURTHER RESOLVED by the Board of Commissioners that the Rahway Housing Authority is authorized to provide legal counsel and indemnification for officials, employees and appointees of the Housing Authority in certain actions brought against said officials, employees and appointees.

COMMISSIONER Ragan made a motion to adopt the above Resolution, which was seconded by **COMMISSIONER** Lesinski, and on a roll call vote the Ayes and Nays were as follows:

AYES

Lesinski
Ragan
Simon
Thomas
Thomas-Petit

NAYS

ABSTAIN

ABSENT

Gonzalez
Pekarofski

THE CHAIRPERSON thereupon declared Resolution No. 1614 adopted.

I certify that the foregoing is a true copy of a Resolution of the Housing Authority of the City of Rahway adopted on September 10, 2020.



Jennifer Wenson Maier
Executive Director/Secretary

kap