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TO: Hon. Thomas W. Sumners, Jr.
Assignment Judges
Hon. Mala Sundar**Second Supplement to
Directive #05-08****FROM:** Glenn A. Grant, J.A.D., Acting Administrative Director**SUBJECT:** **Guidelines on the Practice of Law by Retired Judges –**
Guideline 7 (Fee-Generating Appointments) –
Supplement Relating to the Affordable Housing Program**DATE:** November 13, 2024

[Directive #05-08](#) reissued the Guidelines on the Practice of Law by Retired Judges setting out the limitations on the practice of law by former judges who have retired under the provisions of the Judicial Retirement System Act (N.J.S.A. 43:6A-1 et seq.). An August 25, 2023 [Supplement](#) to that Directive promulgated a revision to Guideline 1. This Second Supplement promulgates a revision to Guideline 7 regarding certain fee-generating appointments, effective immediately.

On March 20, 2024, L. 2024, c. 2 amended N.J.S.A. 52:27D-302, the Fair Housing Act (FHA). Those amendments concluded the Council on Affordable Housing (COAH) and created a new process for municipalities to fulfill their affordable housing obligations. In addition, the amendments also established an alternative dispute resolution program (Program) within the Judiciary for the purpose of resolving disputes associated with the FHA.¹

The legislation provides that the Program will consist of at least three and no more than seven members appointed by the Administrative Director, and that members will be retired Mount Laurel judges and/or other “qualified experts.”

¹ L. 2024, c. 2 appropriates \$12,000,000 to the Program for the purpose of carrying out its responsibilities under the new law.

Further, the legislation also provides for the Administrative Director to designate a chair of the Program and make new appointments as needed. Consistent with the statutory timeframe, the Administrative Director designated seven members of the Program, as announced by May 17, 2024 [Notice to the Bar](#).

To align with L. 2024, c. 2, this Second Supplement to Directive #05-08 amends Guideline 7 to permit retired judges to accept the fee-generating appointment to serve as members of the Program.

Specifically, Guideline 7 is amended as follows, with the new language underlined:

Guideline 7. A retired judge may not accept fee-generating court-initiated appointments, e.g., appointments to serve as a receiver, condemnation commissioner, guardian ad litem, mediator, arbitrator, or discovery master except as set forth below.

A retired judge may accept fee-generating court-initiated appointments in the following circumstances only:

(a) as an arbitrator in the statutory or Court-approved arbitration programs, as set forth in R. 4:21A-1 et seq.;

(b) as a mediator in the Statewide Civil Mediation Program, and in the Court-approved presumptive mediation pilot program, provided that the retired judge meets the experiential and training requirements set forth in Rules 1:40-12(a), 1:40-4(e)(1) and 1:40-12(b) and provided that the retired judge agrees to be subject to the same conditions that are applicable to all other mediators in the program, e.g., providing the first two hours of mediation at no cost to the litigants pursuant to R. 1:40-4(b) and Appendix XXVI (“Guidelines for the Compensation of Mediators Serving in the Civil Mediation Program”).

(c) as a member of the Affordable Housing Dispute Resolution Program appointed by the Administrative Director of the Courts pursuant to L. 2024, c. 2.

This guideline is not intended to preclude a retired judge from accepting a fee-generating position as a mediator, arbitrator, or discovery

master where the parties to the case initiate the appointment, select the retired judge who is to be appointed, establish the fee arrangement, and the court's only participation is to memorialize their agreement in an appropriate order. Such memorialization shall be by the Assignment Judge. A retired judge may accept fiduciary appointments at the specific request of interested family members (e.g., Administrator C.T.A.) provided such appointments do not contravene any of the other restrictions set forth in this Directive.

Again, as set forth above, this amendment to Guideline 7 is effective immediately.

cc: Chief Justice Stuart Rabner
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