

A RESOLUTION IN SUPPORT OF SENATE BILL S-2254 AND ASSEMBLY BILL A-3821 WHICH AFFIRMS THE LANGUAGE AND LEGISLATIVE INTENT OF THE FAIR HOUSING ACT

WHEREAS, the (*insert name of municipality*) supports the provision of affordable housing in a reasonable, rational and achievable way, consistent with economic realities and sound planning; and

WHEREAS, pursuant to the March 2015 New Jersey Supreme Court order which transferred oversight of the Fair Housing Act (FHA) to the courts, hundreds of municipalities filed declaratory judgment actions to voluntarily comply with their State imposed affordable housing requirements; and

WHEREAS, in February, the Ocean County Superior Court included a distinct “gap period” analysis retroactively over an additional 16 year period, separate and apart from the normal 10 year present and prospective need; and

WHEREAS, the Appellate Division recently in a unanimous decision overturned the February Ocean County Superior Court decision and held that municipalities are only responsible to address the ten year present and prospective need, not any “gap period” number; and

WHEREAS, the New Jersey Supreme Court has, for the stated purposes of, “*...judicial economy and efficiency based on the large number of actions involved. The Court makes no findings as to the reasonable probability of success on the merits, irreparable harm, or the relative hardship to the parties,*” agreed to hear an appeal of the Appellate Division ruling in late November; and

WHEREAS the Fair Housing Act (FHA) and existing case law, requires that “present and prospective fair share of the housing need in a given region ... shall be computed for a 10-year period.” [N.J.S.A. 52:27D-307(c)]; and

WHEREAS, the “gap issue” arises out of the inability of the New Jersey Council on Affordable Housing to promulgate third round regulations from 1999 to the present or

make any final determination as to state and regional housing need, as well as constant litigation by certain groups; and

WHEREAS, any retroactive “gap” obligations could have significant and unfunded impacts on municipalities, may double count households under both present and prospective need, and will likely result in forcing municipalities and their property taxpayers to subsidize development; and

WHEREAS, this issue needs a resolution which provides both certainty and an achievable path forward so municipalities can proceed with planning for and implementing their affordable housing obligations;

WHEREAS, Senate Bill S-2254, sponsored by Senators Greenstein and Bateman, and Assembly Bill A-3821, sponsored by Assemblymen DeAngelo and Benson, re-affirm the language and legislative intent of the Fair Housing Act, so as to preclude significant unfair impacts and instead further progress toward a more rational statewide housing policy, including reasonable and achievable obligations for municipalities, facilitate municipal compliance and the actual provision of affordable housing.

NOW, THEREFORE, BE IT RESOLVED, on this ____ day of _____, 2016 by the *(insert name of municipality and county)*, that:

1. (insert municipality) strongly urges New Jersey Legislators to immediately reaffirm the language and legislative intent of the Fair Housing Act (FHA) and expressly clarify that the municipal affordable housing share is the sum of present and prospective need for the enumerated ten year period.
2. (Insert municipality) supports Senate Bill S-2254 and Assembly Bill A-3821.
3. Copies of this resolution be distributed to the Governor, the Lieutenant Governor, the President of the New Jersey Senate, the Speaker of the New Jersey General Assembly, the Legislative Sponsors, (insert State Senator and Assembly Representatives), Senator Jeff Van Drew, Senator Ronald Rice, Assemblyman Jerry Green and Assemblywoman Mila Jasey, the New Jersey League of Municipalities and the New Jersey Conference of Mayors.

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- 9) The Senate Community and Urban Affairs Committee
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