

RESOLUTION # 2011 – 169

**RESOLUTION OF THE MAYOR AND BOROUGH COUNCIL OF THE BOROUGH
OF MOUNT ARLINGTON, IN THE COUNTY OF MORRIS, NEW JERSEY,
URGING THE SWIFT PASSAGE OF A-3430, A-3431, AND A-3432**

WHEREAS, injuries that occur on sidewalks that abut commercial property are the responsibility of the commercial property owner; and

WHEREAS, courts have ruled that injuries that occur on sidewalks that abut residential property are not the responsibility of the homeowner even when the homeowner is responsible for the maintenance and repair of the sidewalk by municipal ordinance; and

WHEREAS, courts have ruled that the municipality, not the homeowner, is liable for accidents on defective sidewalks notwithstanding the municipal ordinance; and

WHEREAS, under the provisions of Title 59, public entities are immune from injury "caused solely by weather" on streets and sidewalks; and

WHEREAS, despite this language, in many cases municipalities and other public entities still have been forced to pay large amounts of money in damages when courts ruled that because other factors contributed to the accident, the Title 59 immunity didn't apply because the accident was not "solely" caused by weather; and

WHEREAS, municipalities and other public entities have also been forced to pay large amounts of money in damages for accidents occurring on other public property that were substantially caused by weather; and

WHEREAS, also under the provisions of Title 59, public entities are immune from injury "caused by a condition of any unimproved public property, including but not limited to any natural condition of any beach;" and

WHEREAS, despite this language, in many cases municipalities still have been forced to pay large amounts of money in damages for claims by swimmers injured in the ocean; and

WHEREAS, public entities have also incurred large costs in defending lawsuits by persons injured while walking on municipal boardwalks; and

WHEREAS, a public entity should be immune from such a suit if it can demonstrate that it was operating under an ongoing maintenance plan calling for periodically reviewing and repairing the boardwalk; and

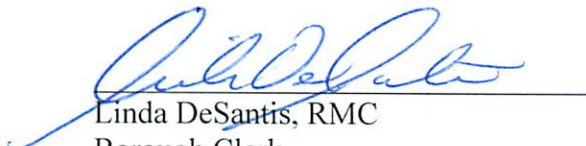
WHEREAS, Assemblyman Burzichelli has introduced a package of legislation, A-3430, A-3431 and A-3432 to strengthen immunity from tort claims involving weather, sidewalks,

beaches, boardwalks and similar public properties;

NOW, THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE BOROUGH OF MOUNT ARLINGTON, THAT the Legislature is urged to pass A-3430, A-3431, and A-3432 to strength municipalities' immunity from tort claims.

BE IT FURTHER RESOLVED, that a copy of this Resolution be forwarded to the members of the New Jersey General Assembly, the New Jersey State Senate, the Governor of State of New Jersey and the New Jersey League of Municipalities.

I hereby certify this to be an accurate and true resolution as approved by the Mayor and Borough Council at a Meeting held on April 19, 2011.



Linda DeSantis, RMC
Borough Clerk