

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE BOROUGH OF MOUNT ARLINGTON, IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY 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 Borough of Mount Arlington 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 sixteen (16) year period, separate and apart from the normal ten (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 (10) 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; and

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, by the Mayor and Council of the Borough of Mount Arlington, as follows:

1. the Borough of Mount Arlington 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 (10) year period.
2. the Borough of Mount Arlington supports Senate Bill S-2254 and Assembly Bill A-3821.
3. the Borough of Mount Arlington Clerk is instructed to send a copy of this resolution to the distribution list attached, including the Governor, the Lieutenant Governor, the President of the New Jersey Senate, the Speaker of the New Jersey General Assembly, the Legislative Sponsors, the Borough's 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.

I HEREBY CERTIFY this to be a true and correct Resolution of the Borough Council of the Borough of Mount Arlington and adopted on December 6, 2016.

Approved:



Michael Stanzilis, Mayor

Attest:



Linda DeSantis, RMC, Borough Clerk



NEW JERSEY CONFERENCE OF MAYORS

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Linda DeSantis, RMC, CI
Borough Clerk

NOV 10 2016

November 2017

Borough of
Mount Arlington

Dear Mayor

IMPORTANT COAH LEGISLATION INFORMATION AND RESOLUTION

The New Jersey Conference of Mayors (NJCM) in concert with the New Jersey League of Municipalities (NJLOM) solicits Mayors/Municipalities support of the attached resolution supporting Senate Bill S-2254 and Assembly Bill A-3821 which affirms the language and legislation intent of the Fair Housing Act, and which does not support any GAP period numbers.

Please complete the attached resolution, as soon as possible, and distribute as indicated. Please see below information regarding the reasons the New Jersey Conference of Mayors and the New Jersey League of Municipalities support this legislation.

Specifically, these bills clarify that every municipality's affordable housing obligation is the sum of:

- 1. present need, which are individuals that exist in the municipality presently, but live in deteriorated housing who qualify as low income households (households whose income is 50% or less of the median gross income for households in the housing region) or moderate income households (households whose income is more than 50% but less than 80% of the median gross income for households in the housing region); and
2. prospective need, which is the municipality's share of low and moderate income households that will be created in the future.

S-2254 and A-3821 clarify the existing law and create a rational and reasonable path forward for New Jersey municipalities to meet their affordable housing goals.

- The so called "gap" issue arose due to the failure of the state agency (COAH) charged with adopting and administering regulations to do so.
The Appellate Division was correct in reversing a lower court's ruling which created a new obligation, i.e. a "gap" obligation.
If a municipality has a plan to address its present and prospective need, it should be able to implement the plan without the threat of ongoing and costly litigation.
Despite the Appellate Division ruling regarding the "gap period", without legislative help, towns will continue to battle untenable and irrational arguments which will drag out and make more costly their efforts to plan for affordable housing.
The proposed obligations being advanced by certain housing advocates and private developers are unreasonable, irrational and unachievable.
The Court appointed master in several counties is the only expert to review both methodologies offered by the Fair Share Housing Center and the "Municipal Group." He has found significant error in the Fair Share Methodology and has advanced his own projections.
A-3821 and S-2254 clarifies existing law and is consistent with the Appellate Division ruling. These bills will implement a rational, reasonable and achievable housing policy and will incentivize the production of affordable housing.

Thank you and we appreciate your assistance.

Mayor Phyllis Jeffries-Magazzu, NJCM President
Mayor Timothy McDonough, NJCM Legislative Chair
Mayor Susan Howard, NJCM Legislative Co-Chair
John F. Morrissey, NJCM Executive Director

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