

RESOLUTION OF THE CITY OF SUMMIT, COUNTY OF UNION, OPPOSING ASSEMBLY BILL NO. 4/SENATE BILL NO. 50, WHICH PROPOSES TO OVERHAUL THE FAIR HOUSING ACT IN A WAY THAT WILL SERVE TO DIMINISH HOME RULE FOR MUNICIPALITIES

February 6, 2024

WHEREAS, the New Jersey Legislature adopted the Fair Housing Act (“FHA”) in 1985, a piece of bi-partisan legislation designed to curb the excesses caused by the Supreme Court’s landmark decision known as Mount Laurel II, to restore balance to legitimate public purposes, and to restore home rule to New Jersey’s municipalities so each might control its own destiny; and

WHEREAS, more specifically, the FHA sought *to restore home rule* by imposing a moratorium on the builder’s remedy and by providing an administrative process that municipalities could voluntarily pursue wherein they would be insulated from developers seeking builder’s remedies to try to compel them to capitulate to their zoning demands; and

WHEREAS, the FHA sought *to bring the fair share numbers back to reality* by among other things defining the prospective need as the need “based on development and growth which is reasonably likely to occur” and by calling for the fair share to be adjusted to a number lower than the fair share formula generated if the municipality lacked sufficient land to satisfy the obligation generated by the fair share formula; and

WHEREAS, the FHA sought *to reduce the burdens on municipalities* by prohibiting any requirement for municipalities to expend their own resources to comply; and

WHEREAS, Assembly Bill No. 4/Senate Bill No. 50 (hereinafter the “A4/S50” or “the Bill”) is now before the New Jersey Legislature and set for a vote; and

WHEREAS, A4/S50 stands to abolish the protections afforded to New Jersey’s municipalities by the FHA; and

WHEREAS, A4/S50 would make critical changes which severely prejudice municipal interests and undercut the incentive to voluntarily work to create low income and affordable housing opportunities; and

WHEREAS, the A4/S50 Bill creates a judicial entity made up of 3-7 retired Mount Laurel judges called the “Affordable Housing Dispute Resolution Program,” which, unlike COAH, is not comprised of an equal number of municipal and housing representatives, thereby depriving the citizens of our State of the carefully crafted COAH Board that included a diversity of interests and that was the centerpiece of the FHA adopted in 1985; and

WHEREAS, indeed, the A4/S50 Bill fails to consider the impact from affordable housing projects that were approved during the Third Round, but are still not yet under construction, as said projects, as well as additional future projects, will impact legitimate public concerns like infrastructure, the environment, schools, traffic, parking and open space; and

WHEREAS A4/S50 subjects municipalities to litigation not only as they seek approval of their Housing Element and Fair Share Plans, but also even after they secure approval of those plans; and

WHEREAS, more specifically, while A4/S50 provides municipalities a “compliance certification” if the municipality secures approval of its affordable housing plan, that certification only protects municipalities from builder’s remedy lawsuits-not from exclusionary zoning lawsuits by FSHC or anyone else who is not seeking a builder’s remedy; and

WHEREAS, in stark contrast to the goal of A4/S50 to reduce litigation, A4/S50 dramatically proliferates litigation by providing many opportunities to sue the subject municipality and through other means; and

WHEREAS, the Office of Legislative Services (OLS) has not evaluated the formula required by the A4/S50 Bill for calculating a municipality's Fourth Round or Prospective Need Obligation for its magnitude or reasonableness; and

WHEREAS, the City of Summit ("Summit") has demonstrated its commitment to making low income and affordable housing available in Summit for over half of a century; and

WHEREAS, Summit demonstrated this commitment long before it was required by legislation and/or judicial decree; and

WHEREAS, Summit likewise has always fulfilled its obligations under the FHA voluntarily in line with its own vision and to preserve its own history and character; and

WHEREAS, Summit Common Council and its appointed boards and commissions want to ensure the opportunity to investigate the potential impacts of development on our infrastructure including traffic, parking, and our school system; and

WHEREAS, Summit nonetheless has remained compliant with its obligations under the FHA and will continue to do so in line with its Master Plan; and

WHEREAS, A4/S50 stands to cause and likely unnecessarily will result in Summit's loss of home rule and the autonomy to control its own destiny.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF SUMMIT, COUNTY OF UNION, NEW JERSEY:

1. That for all of the above reasons, the Common Council of the City of Summit, objects to and opposes Assembly Bill No. 4/Senate Bill No. 50, and requests that the bill be tabled, re-written and re-introduced in way that imposes achievable obligations and facilitates the ability of the municipality to satisfy its obligations.
2. A copy of this resolution shall be sent to Governor Murphy, Summit's District 21 Representatives – Senator Jon Bramnick, Assemblywoman Nancy Muñoz and Assemblywoman Michele Matsikoudis; Sponsors of Bill No. A4 - Assembly Speaker Craig J. Coughlin, Assemblywoman Yvonne Lopez, Assemblyman Benjie Wimberly and Assemblywoman Verlina Reynolds-Jackson; Sponsors of S-50 – Senator Nicholas Scutari and Senator Troy Singleton; and to the League of Municipalities.

Dated: February 6, 2024

I, Rosalia M. Licatese, City Clerk of the City of Summit, do hereby certify that the foregoing resolution was duly adopted by the Common Council of said City at a regular meeting held on Tuesday evening, February 6, 2024.



City Clerk

