

**RESOLUTION**  
of the  
**BOROUGH OF NEW PROVIDENCE**  
Resolution No. 2017-205

Council Meeting Date: 08-14-2017

Date Adopted: 08-14-2017

TITLE: RESOLUTION OF THE BOROUGH COUNCIL OF THE BOROUGH OF NEW PROVIDENCE, COUNTY OF UNION, STATE OF NEW JERSEY URGING THE GOVERNOR AND LEGISLATURE OF THE STATE OF NEW JERSEY TO DEVELOP COMMON SENSE AFFORDABLE HOUSING RULES.

Councilperson Kapner submitted the following resolution, which was duly seconded by Councilperson Muñoz.

WHEREAS the first Mt. Laurel case in 1975 and the second in 1983, resulted in rulings that required all New Jersey municipalities to take affirmative action toward providing their "fair share" of the regions need for affordable housing for low and moderate income people; and

WHEREAS the New Jersey legislature adopted the Fair Housing act in 1985, which created the Council on Affordable Housing, to assess the statewide need for affordable housing, to allocate that need on a municipal fair share basis, and to review and approve municipal housing plans aimed at implementing the local fair share obligation; and

WHEREAS, subsequently COAH adopted its third round regulations on December 20, 2004, which required municipalities to petition for third round substantive certification, in order to remain under their jurisdiction; and

WHEREAS on January 25, 2007 the Appellate Division issued a decision on the third round regulations, which required COAH to revise its third round rules and precluded COAH from issuing third round substantive certifications until the new rules were adopted; and

WHEREAS on May 6, 2008, COAH adopted new third round rules, effective on June 2, 2008, followed by publication in the New Jersey Register as required, which ultimately resulted in the filing of amended third round certifications due on or before December 31, 2008; and

WHEREAS the Borough of New Providence worked diligently to comply with the regulations when adopted and endeavored to remain current with our affordable housing obligation; and

WHEREAS, for the period from October 8, 2010 through October 2014, COAH failed to meet the deadline set by the Supreme Court for establishing new third round certification guidelines, and subsequently, the Supreme Court on March 10, 2015 ordered that, with the exhaustion of all administrative remedies, the courts shall resume their role of evaluating municipal compliance with Mount Laurel obligations; the effective date of the order was June 8, 2015; municipalities that were under administrative review were permitted to file declaratory judgment actions with the court by July 8, 2015; and

WHEREAS the failure of the Governor and Legislature of the State of New Jersey to adopt affordable housing rules is a major detriment to the long-term development of all Municipalities in this State whereby a Municipality cannot plan for future growth without the threat of “builders remedy lawsuits”; and

WHEREAS Municipalities have spent millions of dollars complying with state regulations only to see that money being wasted due to the constant changes promulgated by the Courts and the failure of state agencies to comply with court mandates relative to publication and content of regulations; and

WHEREAS the current state of affairs has resulted in placing too much influence with the Courts and Special Interest Interveners over local zoning; and

WHEREAS common sense affordable housing policies would call for affordable housing to be concentrated in areas where there is already supporting infrastructure, existing transportation routes, mass transit, and employment opportunities; and

WHEREAS requiring all 565 municipalities to create housing in locations that do not have infrastructure, transportation, or employment, violates the principles of smart growth, in accordance with the New Jersey State Development and Redevelopment Plan, and common sense.

NOW THEREFORE BE IT RESOLVED, that the Governing Body of the Borough of New Providence, County of Union, New Jersey calls upon the Governor and Legislature of the State of New Jersey to pass common sense affordable housing legislation and regulations that direct affordable housing to those locations with existing

infrastructure, existing transportation networks, existing mass transit, and employment opportunities; and

BE IT FURTHER RESOLVED, the Borough recognizes the value of preserving green space, open areas, and the quality of life in New Jersey as discussed in the New Jersey State Plan and in the principles of smart growth. These regulations should apply equally to all municipalities in the State of New Jersey to give each town an opportunity to comply with clear and concise regulations that spell out precisely each town's role; and

BE IT FURTHER RESOLVED, that a copy of this Resolution be forwarded to the Governor and Lieutenant Governor of the State of New Jersey, the Senate President, Assembly Speaker, Assemblywoman Nancy Munoz and Assembly Leader Jon Bramnick and Senator Thomas Kean.

APPROVED, this 14<sup>th</sup> day of August, 2017.

## RECORD OF VOTE

|           | AYE | NAY | ABSENT                    | NOT VOTING |
|-----------|-----|-----|---------------------------|------------|
| GALLUCCIO | X   |     |                           |            |
| GENNARO   |     |     | X                         |            |
| KAPNER    | X   |     |                           |            |
| MADDEN    |     |     | X                         |            |
| MUÑOZ     | X   |     |                           |            |
| ROBINSON  | X   |     |                           |            |
| MORGAN    |     |     | TO BREAK COUNCIL TIE VOTE |            |

I hereby certify that the above resolution was adopted at a meeting of the Borough Council held on the 14<sup>th</sup> day of August, 2017.

Wendi B. Barry, Borough Clerk