



Masser, Michelle

From: Lashway, Lisa
Sent: Thursday, October 08, 2009 8:34 AM
To: Masser, Michelle
Subject: FW: Inherently Beneficial Uses

correspondence

Lisa Lashway
Township Clerk
Township of Mount Olive
P.O. Box 450
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973-691-0900 Ext. 7290

From: NJLM - Municipal Clerks [mailto:njlm-clerks@cityconnections.com]
Sent: Wednesday, October 07, 2009 4:25 PM
To: Lashway, Lisa
Subject: Inherently Beneficial Uses

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LEAGUE ALERT		
Municipal Clerk: Please forward to Mayor and Governing Body.		
<p>October 7, 2009</p> <p>Re: S-1303/A-3062 "Inherently Beneficial Uses"</p>		
<p>Dear Mayor:</p> <p>The League opposes S-1303/A-3062, which defines "inherently beneficial use" and includes facilities that supply electrical energy produced from wind, solar or photovoltaic technologies. If a use is deemed to be "inherently beneficial" it</p>		

presumptively satisfied the criteria for a use variance under subsection d of section 57 of the MLUL, (i.e., a nonconforming use.) Thus, these uses would be considered inherently beneficial, even in residential zones.

We understand the intent of the bill, which is to promote alternate forms of energy. But, if indeed a project is beneficial to the community, the applicant has the option to go through the normal regulatory and democratic process. No such change in the statute is necessary.

While this is promoted as an energy bill, we view it as a land use bill and a problematic land bill. The bill effectively declares these alternate energy sources as “inherently beneficial uses” without regard to the particular zone in which the property is located, undermining the very purpose of zoning (that is to separate residential, commercial and industrial uses) and sound planning strategies.

S-1303 passed the Senate on June 25, 2009 and is currently on the Governor’s desk. We recommend that you consider the enclosed resolution at your next governing body meeting.

Questions on this legislation can be directed to Mike Cerra at mcerra@njslom.com or 609-695-3481 x120.

Very truly yours,

William G. Dressel, Jr.
Executive Director

**Resolution Expressing Opposition to A-3062 and S-1303 Regarding
“Inherently Beneficial Uses”**

WHEREAS, A-3062 and S-1303 will establish renewable energy as an “inherently beneficial use” for purposes of municipal zoning; and

WHEREAS, A-3062/S-1303 defines “inherently beneficial use” as a use which is universally considered of value to the community because it fundamentally serves the public good and promotes the general welfare, including, but not limited to, a hospital, school, child care center, group home or a wind, solar or photovoltaic energy facility or structure; and

WHEREAS, the (*insert name of municipality*) does not believe that renewable energy facilities demonstrate the same level of public benefit as is associated with other “inherently beneficial uses” including hospitals, schools, child care centers and group homes; and

WHEREAS, while the intent of A-3062/S-1303 is admirable, it permits solar panel fields and wind generation facilities to be placed anywhere in a municipality without regard to the comprehensive municipal master plan and zoning regulations or any other state planning initiatives; and

WHEREAS, while the *(insert name of municipality)* supports the intent to develop legislation that will encourage renewable energy in New Jersey, it must be done without negatively effecting the growth, farmland and open space preservation plans of municipalities; and

WHEREAS, municipalities are best equipped to address local land use issues and should be provided with discretion to establish appropriate regulations and controls consistent with their master plan.

NOW, THEREFORE, BE IT RESOLVED by the *(insert name of municipality)* of the *(insert name of municipality)*, in the County of *(insert name of municipality)*, State of New Jersey, hereby urge Governor Corzine to veto A-3062 and S-1303; and

BE IT FURTHER RESOLVED, that a copy of this Resolution shall be forwarded to Senator _____, Assembly _____ and Assembly _____, the New Jersey League of Municipalities and the Governor of the State of New Jersey

NJLM
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