



From: NJLM - Municipal Clerks [mailto:njlm-clerks@cityconnections.com]
Sent: Thursday, March 05, 2009 3:44 PM
To: Lashway, Lisa
Subject: From NJLM 2 mayors letters

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LEAGUE ALERT

Municipal Clerk: Please forward to Mayor and Governing Body.

March 5, 2009

Re: I Governor Signs Law Officers Suspension Bill

Legislative Alert

Re: II

Re: I. Governor Signs Law Officers Suspension Bill

Dear Mayor:

This morning, while attending the PBA Annual Convention in Atlantic City, Governor Corzine signed into law, the bill which provides certain protections for suspended law enforcement officers and firefighters. The suspended officers and firefighters would regain their pay status when appeals of termination are not resolved within 180 days.

Throughout the process, the League adamantly opposed this unnecessary State law which now supersedes local collective negotiation agreements and existing state statutes in both civil service and non-civil service jurisdictions. Prior to the law signed today, the appointing authority had forty-five (45) days to file a complaint on an employee charging him/her with a violation of internal rule and regulations. In civil service jurisdictions, an employee suspended without pay was entitled to a departmental hearing within thirty (30) days and the departmental decision had to be rendered within twenty (20) days of the hearing. An appeal of the decision had to be filed within twenty (20) days. In non-civil service jurisdictions, a departmental hearing had to be commenced within thirty (30) days from the service of the complaint, and the employee could appeal his/her discipline to the Superior Court by filing an application within 10 (ten) days from the date the appointing authority issued a decision on the charge(s). An employee unjustly suspended and is cleared of any charges is already entitled to remedial relief, including reinstatement, back pay and attorney fees.

Our plea to the Legislature and the Governor to reject this unfunded State mandate, most especially

given the extreme economic uncertainties we face, fell on deaf ears.

Upon signing, A-3481/S-1336 takes effect June 1, 2009 and “shall apply to all disciplinary cases in which the underlying conduct occurred after that effective date.

Please contact League office for copy of the new Law.

Very truly yours,

William G. Dressel, Jr.
Executive Director

Re: II. Legislative Alert

Dear Mayor:

1. Age Restricted Housing Conversion Bill

Last week, the Senate Economic Growth considered, amended and approved S-2577, which allows for the change of a proposed age-restricted development to be marketed instead without age restrictions. We previously wrote you on this bill (please see our Dear Mayor letter of February 23) and outlined the reasons for the League’s opposition.

The Senate committee moved several significant amendments. Most importantly, the original Section 11 of the bill, which allowed for a developer to appeal a local board’s denial to the State’s “Smart Growth Ombudsman,” was removed entirely at the urging of the League. The bill, however, authorizes the request to convert the approved age restricted units as a right, and not as a “d variance.” A developer would have recourse through the Courts, instead of an appeal to a State official.

The amendments further state that a converted development may allow preference to certain households that live and work in the municipality. Further, the amendments exempt units that have been foreclosed in certain circumstances from affirmative marketing requirements. Lastly, the amendments allow that if federal tax law requirements are met, the units are authorized to be credited towards a municipality’s affordable housing requirements. Please view the committee statement at http://www.njleg.state.nj.us/2008/Bills/S3000/2577_S1.HTM for a summary of the amendments.

So while the amendments improve the bill, our review leads us to conclude that there need to be more incentives in the legislation and we are not in a position to support the bill. If the State wants to encourage the conversion of these developments as a means to spur the economy, then we believe the bill should include, for example, a 2-1 bonus for affordable housing units within the development.

The Assembly companion, A-3772, is scheduled for a hearing by the Assembly Housing and Local

Government Committee, on Monday, March 9. We believe this legislation is being fast-tracked, so we would suggest making your comments and concerns known to your Legislators quickly.

For more information on this bill contact Mike Cerra at mcerra@njslom.com or 609-695-3481 x120.

2. Inherently Beneficial Passes Scheduled for Assembly Committee

A-3062 and S-1303, which define "...the term "inherently beneficial use" for the purposes of zoning use variance and specifically includes facilities that supply electrical energy produced from wind, solar, or photovoltaic technologies," are scheduled for a hearing by the Assembly Housing and Local Government Committee, on Monday, March 9. S-1303 has already passed the State Senate.

While the League supports the development of alternate energies, defining in statute "inherently beneficial use" for the purposes of these efforts sets a bad precedent. If a use is deemed to be "inherently beneficial" it presumptively satisfies the criteria for a use variance under subsection d of section 57 of the MLUL, (i.e., a nonconforming use.)

The League has opposed past efforts to introduce a definition for "inherently beneficial use" because special interests have sought additional amendments to exempt their constituencies. 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.

We suggest contacting the members of the Assembly Housing and Local Government Committee, as well as your Assembly representatives, and ask them to oppose A-3062 and S-1303. A listing of the committee is available at: <http://www.njslom.org/assembly-committee3.html>. If the Committee approves the bill, it is poised for a vote by the General Assembly and could be on the Governor's Desk later this month.

For more information on this bill, see our Dear Mayor letter of February 10 or contact Mike Cerra at mcerra@njslom.com or 609-695-3481 x120.

Very truly yours,

William G. Dressel, Jr.
Executive Director

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