

ASSEMBLY HOUSING COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2773

STATE OF NEW JERSEY

DATED: MAY 12, 1997

The Assembly Housing Committee reports favorably Assembly Bill No. 2773.

This bill provides that "community residences for the terminally ill," which is defined as residences providing hospice care and housing not more than 15 persons, be an unconditional permitted use in all municipalities. Under section 1 of P.L.1978, c.159, which is part of the "Municipal Land Use Law," a municipality must permit under its zoning scheme community residences for the developmentally disabled, community shelters for victims of domestic violence, and community residences for persons with head injuries, if those residences house no more than six persons. One portion of the statute provides that a municipality may impose conditions on or deny a zoning variance to community residences for the developmentally disabled, community shelters for victims of domestic violence, and community residences for persons with head injuries if such a residence will house more than six persons.

Two court decisions have invalidated this portion of the statute as violating the federal "Fair Housing Amendments Act of 1988"; *The ARC of New Jersey, Inc. v. State of New Jersey*, ___ F. Supp. _____ (D.N.J. 1996), 1996 WL 748224, and *Association for Advancement of the Mentally Handicapped, Inc. v. City of Elizabeth*, 874 F.Supp. 614 (D.N.J. 1994). These decisions hold that the enabling statute allowed disparate treatment of the handicapped. The bill, therefore, amends the statute to comport with these judicial judgments, and adds a new class of community residence for hospice care to those residences which will be permitted uses in residential zones.