

SENATE COMMUNITY AFFAIRS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2773

STATE OF NEW JERSEY

DATED: DECEMBER 11, 1997

The Senate Community Affairs Committee reports favorably Assembly Bill No. 2773.

This bill would amend a provision of the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.), which authorizes municipalities to impose restrictions on the location of community residences for the developmentally disabled, community shelters for victims of domestic violence, and community residences for persons with head injuries, in order to comport with the requirements of the federal "Fair Housing Amendments Act of 1988." The bill would also add a new class, "community residences for the terminally ill," to those residences which are permitted uses in residential zones.

Under current law, section 1 of P.L.1978, c.159, a municipality may impose conditions on, or deny a zoning variance to, a community residence for the developmentally disabled, a community shelter for victims of domestic violence, or a community residence for persons with head injuries if such a shelter or residence would house more than six persons. Current law specifically allows a municipality to deny a conditional use permit for a proposed residence or shelter if the proposed residence or shelter would be located within 1500 feet of an existing residence or shelter; or if the total number of persons residing in residences and shelters exceeds 50 persons or 0.5% of the municipal population, whichever is greater.

These provisions have been found to be invalid as violative of the federal "Fair Housing Amendments Act of 1988" in two federal district court decisions, *The ARC of New Jersey, Inc. v. State of New Jersey*, 950 F. Supp. 637 (D.N.J. 1996), and *Association for Advancement of the Mentally Handicapped, Inc. v. City of Elizabeth*, 876 F.Supp. 614 (D.N.J. 1994), because the provisions impose restrictions on the housing of handicapped persons that are not imposed on the housing of others. The bill would end such disparate treatment of the handicapped.

This bill also provides that "community residences for the terminally ill," defined as residences providing hospice care and housing to not more than 15 persons, would be a permitted use in all residential districts of a municipality.

This bill is identical to Senate Bill No. 2213, also reported by the committee on December 11, 1997.