

RESOLUTION OF THE CITY COUNCIL

No. 280

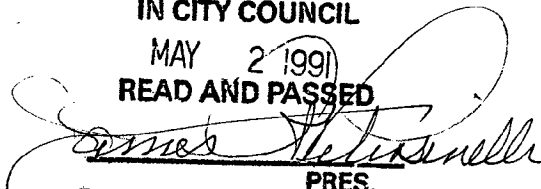
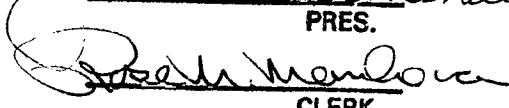
Approved May 10, 1991

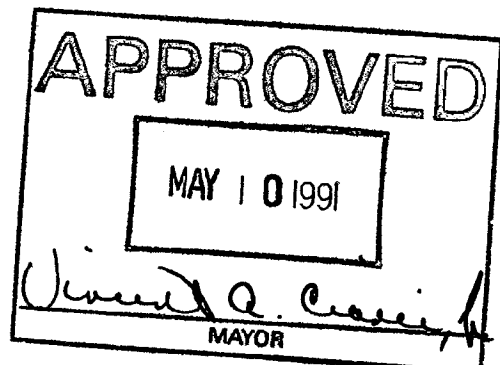
WHEREAS, Senate Bill 91-S734 would expedite procedures for approval of homeless residences and low income housing, and

WHEREAS, There does exist an acute shortage of affordable, accessible, safe and sanitary housing for the citizens of low and moderate income, both individuals and families, and

WHEREAS, This Act shall provide for the appointment of a Housing Appeals Board within the State,

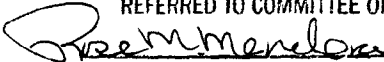
NOW, THEREFORE, BE IT RESOLVED, That the Members of the Providence City Council hereby endorse Senate Bill 91-S734 presently pending before the Committee on Corporations.

IN CITY COUNCIL
MAY 2 1991
READ AND PASSED

PRES.

CLERK



IN CITY COUNCIL
APR _ 4 1991
FIRST READING
REFERRED TO COMMITTEE ON

ORDINANCES

 CLERK

Councilman Lombardi, Councilman Rollins, Councilwoman Young

STATE OF RHODE ISLAND

JANUARY SESSION, A.D. 1991

RELATING TO TOWNS AND CITIES -- ZONING
BOARDS -- HOMELESS RESIDENCES AND LOW
INCOME HOUSING

Referred To: Committee on Corporations

7 45-53-2. Legislative findings and intent. -- The general assem-
8 bly hereby finds and declares that there exists an acute shortage of
9 affordable, accessible, safe and sanitary housing for its citizens of
10 low and moderate income, both individuals and families; that it is
11 imperative that action be taken immediately to assure the availability
12 of affordable, accessible, safe and sanitary housing for these per-
13 sons; that it is necessary that each city and town provide opportuni-
14 ties for the establishment of low and moderate income housing; and
15 that the provisions of this chapter are necessary to assure the
16 health, safety and welfare of all citizens of this state and that each

91-S 734

1 the remainder of the chapter.

2 SECTION 2. This act shall take effect upon passage.

ES603

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
AN ACT
RELATING TO TOWNS AND CITIES -- ZONING
BOARDS -- HOMELESS RESIDENCES AND LOW
INCOME HOUSING

1 This act would expedite procedures for approval of homeless
2 residences and low income housing.

3 This act would take effect upon passage.

ES603

1 citizen enjoys the right to affordable, accessible, safe and sanitary
2 housing. It is further declared to be the purpose of this chapter to
3 provide for housing opportunities for low and moderate income indi-
4 viduals and families in each city and town of the state.

~~X~~ 5 45-53-2. Definitions. -- The following words, wherever used in
6 this chapter shall, unless a different meaning clearly appears from
7 the context, have the following meanings:

8 (a) "Low or moderate income housing", any housing subsidized by
9 the federal or state government under any program to assist the con-
10 struction or rehabilitation of low or moderate income housing as de-
11 fined in the applicable federal or state statute, whether built or
12 operated by any public agency or any nonprofit organization or any
13 limited equity housing cooperative or any private developer.

14 (b) "Infeasible", any condition brought about by any single
15 factor or combination of factors, as a result of limitations imposed
16 on the development by conditions attached to the zoning approval, to
17 the extent that it makes it impossible for a public agency or non-
18 profit organization or limited equity housing cooperative to proceed
19 in building or operating low or moderate income housing without finan-
20 cial loss, within the limitations set by the subsidizing agency of
21 government of the size or character of the development or on the
22 amount or nature of the subsidy or on the tenants, rentals and income
23 permissible, and without substantially changing the rent levels and
24 unit sizes proposed by the public agency, nonprofit organization or
25 limited equity housing cooperative.

26 (c) "Consistent with local needs", local zoning or land use ordi-
27 nances, requirements and regulations shall be considered consistent
28 with local needs if they are reasonable in view of the state need for
29 low and moderate income housing considered with the number of low
30 income persons in the city or town affected and the need to protect
31 the health and safety of the occupants of the proposed housing or of
32 the residents of the city or town, to promote better site and building
33 design in relation to the surroundings or to preserve open spaces, and

1 it such local zoning or land use ordinances, requirements and regula-
2 tions are applied as equally as possible to both subsidized and
3 unsubsidized housing. Local zoning and land use ordinances, require-
4 ments or regulations shall be consistent with local needs when imposed
5 by a city or town council after comprehensive hearing in a city or
6 town where (1) low or moderate income housing exists which is in
7 excess of ten percent (10%) of the housing units reported in the
8 latest decennial census of the city or town or (2) the city or town
9 has promulgated such zoning or land use ordinances, requirements and
10 regulations to implement a comprehensive plan which has been adopted
11 and approved pursuant to chapters 45-22.2 and 45-22.3, and the housing
12 element of the comprehensive plan provides for low and moderate income
13 housing in excess of ten percent (10%) of the housing units as pro-
14 vided in (1) above.

15 (d) "Local board", any town or city zoning board of review, plan-
16 ning board or commission, platting board or review, building inspector
17 or the officer or board having supervision of the construction of
18 buildings or the power of enforcing municipal building, subdivision or
19 zoning laws, or city council or town council.

20 (e) "Comprehensive plan", a comprehensive plan adopted and
21 approved by a city or town pursuant to chapter 45-22.2 and 45-22.3.

22 45-53-4. Procedure for approval of construction of low or mod-
23 erate income housing. -- Any public agency, nonprofit organization or
24 limited equity housing cooperative proposing to build low or moderate
25 income housing may submit to the zoning board of review, established
26 under section 45-24-13, a single application for a special exception
27 to build such housing in lieu of separate applications to the applica-
28 ble local boards. In the case of a private developer this procedure
29 shall only be available for low or moderate income rental housing pro-
30 posals which remain as low or moderate income housing for a period of
31 not less than thirty (30) years from initial occupancy. The zoning
32 board of review shall forthwith notify each such local board, as
33 applicable, of the filing of such application by sending a copy

1 thereof to such local boards and to other parties entitled to notice
2 of hearings on applications for special exceptions and shall, within
3 thirty (30) days of the receipt of such application, hold a public
4 hearing on the same. The zoning board of review shall have the same
5 power to issue permits or approvals as any local board or official who
6 would otherwise act with respect to such application, including but
7 not limited to the power to attach to said permit or approval, condi-
8 tions and requirements with respect to height, site plan, size or
9 shape, or building materials as are consistent with the terms of this
10 section. In reviewing the special exception request, the zoning board
11 may deny the request only if the proposal is inconsistent with local
12 needs, including but not limited to, the needs identified in an
13 approved comprehensive plan, local zoning ordinances and procedures
14 promulgated in conformance with the comprehensive plan; if the pro-
15 posal is not in conformance with the comprehensive plan; if the commu-
16 nity has met or has plans to meet the standard of ten percent (10%) of
17 the units being low and moderate income housing; or if concerns for
18 the environment and the health and safety of current residents have
19 not been adequately addressed. The zoning board shall render a deci-
20 sion, based upon a majority vote of said board, within forty (40) days
21 after the termination of the public hearing and, if favorable to the
22 applicant, shall forthwith issue a decision approving the application.
23 If said hearing is not convened or a decision is not rendered within
24 the time allowed, unless the time has been extended by mutual agree-
25 ment between the zoning board and the applicant, the application shall
26 be deemed to have been allowed and the approval shall forthwith issue.
27 Any person aggrieved by the issuance of an approval may appeal to the
28 supreme court.

29 45-53-5. Appeals to state housing appeals board -- Judicial
30 review. -- Whenever an application filed under the provisions of
31 section 45-53-4 is denied, or is granted with such conditions and re-
32 quirements as to make the building or operation of such housing
33 infeasible, the applicant shall have the right to appeal to the state

1 housing appeals board established by chapter 45-53-7, for a review of
2 the same. Such appeal shall be taken within twenty (20) days after
3 the date of the notice of the decision by the zoning board of review
4 by filing with said appeals board a statement of the prior proceedings
5 and the reasons upon which the appeal is based. The appeals board
6 shall forthwith notify the zoning board of review of the filing of
7 such petition for review and the latter shall, within ten (10) days of
8 the receipt of such notice, transmit a copy of its decision and the
9 reasons therefor to the appeals board. Such appeal shall be heard by
10 the appeals board within twenty (20) days after receipt of the appli-
11 cant's statement. A stenographic record of the proceedings shall be
12 kept and the appeals board shall render a written decision and order,
13 based upon a majority vote, stating its findings of fact, its conclu-
14 sions and the reasons therefor within thirty (30) days after the
15 termination of the hearing, unless such time shall have been extended
16 by mutual agreement between the appeals board and the applicant. Such
17 decision and order may be appealed in the supreme court.

18 45-53-6. Power of the state housing appeals board. -- In hearing
19 the appeal, the state housing appeals board shall determine whether,
20 in the case of the denial of an application, the decision of the
21 zoning board of review was reasonable and consistent with local needs
22 and, in the case of an approval of an application with conditions and
23 requirements imposed, whether such conditions and requirements make
24 the construction or operation of such housing infeasible and whether
25 they are consistent with local needs. Standard for reviewing the
26 appeal shall include, but not be limited to, consistency of the deci-
27 sion to deny or condition the permit with the approved comprehensive
28 plan; the extent to which the community meets or plans to meet the ten
29 percent (10%) standard for existing low and moderate income housing
30 units; the consideration of the health and safety of existing resi-
31 dents; the consideration of environmental protection; and the extent
32 to which the community applies local zoning ordinances and special
33 exception procedures evenly on subsidized and unsubsidized housing

1 applications alike. If the appeals board finds, in the case of a
2 denial, that the decision of the zoning board of review was unreason-
3 able and not consistent with local needs, it shall vacate such deci-
4 sion and shall issue a decision and order approving the application.
5 If the appeals board finds, in the case of an approval with conditions
6 and requirements imposed, that the decision of the zoning board of
7 review makes the building or operation of such housing infeasible and
8 is not consistent with local needs, it shall issue a decision and
9 order modifying or removing any such condition or requirement so as to
10 make the proposal no longer infeasible and approving the application;
11 provided, however, that the appeals board shall not issue any decision
12 and order that would permit the building or operation of such housing
13 in accordance with standards less safe than the applicable building
14 and site plan requirements of the federal department of housing and
15 urban development or the Rhode Island housing and mortgage finance
16 corporation, whichever agency is financially assisting such housing.
17 Decisions or conditions and requirements imposed by a zoning board of
18 review that are consistent with local needs shall not be vacated,
19 modified or removed by the appeals board notwithstanding that such
20 decision or conditions and requirements have the effect of denying or
21 making the applicant's proposal infeasible. The appeals board or the
22 applicant shall have the power to enforce the orders of the appeals
23 board by an action brought in the supreme court. The zoning board of
24 review shall carry out the decision and order of the appeals board
25 within thirty (30) days of its entry and, upon failure to do so, the
26 decision and order of said appeals board shall, for all purposes, be
27 deemed to be the action of said zoning board of review, unless the
28 applicant consents to a different decision or order by such zoning
29 board of review. The decision and order of the appeals board shall be
30 binding on the city or town which shall forthwith issue any and all
31 necessary permits and approvals to allow the construction and opera-
32 tion of the housing as approved by the appeals board.

33 45-53-7. There shall be within the state a housing appeals board

1 consisting of nine (9) members:

2 Housing Appeals Board

3 Represent:

Appointed by:

4 1 District Court Judge (Chair)

Chief of District Court

5 1 Local zoning board member

Speaker of the House

6 1 Local Planning board member

Majority Leader of Senate

7 2 City and town council members

Speaker of the House

8 (plus an alternate) - representing

Majority Leader of Senate

9 Municipalities of various sizes

(Governor)

10 1 Affordable housing developer

Governor

11 1 Affordable Housing advocate

Governor

12 1 Director of Statewide Planning

Self-appointed

13 or designee

14 1 Director of Rhode Island Housing

Self-appointed

15 or designee

16 All appointed shall be for two (2) year terms, provided, however, the
17 initial terms of members appointed by the speaker of the house and
18 majority leader shall be for a period of one (1) year. A member shall
19 receive no compensation for his/her services, but shall be reimbursed
20 by the state for all reasonable expenses actually and necessarily
21 incurred in the performance of his/her official duties. Said board
22 shall hear all petitions for review filed under section 45-53-5, and
23 shall conduct said hearings in accordance with the rules and regula-
24 tions established by the chair. Rhode Island housing shall provide
25 such space and clerical and other assistance as the board may require.

26 45-53-8. Severability. -- If any provision of this chapter or of
27 any rule, regulation or determination made thereunder, or the applica-
28 tion thereof to any person, agency or circumstances is held invalid by
29 a court of competent jurisdiction, the remainder of the chapter, rule,
30 regulation, or determination and the application of such provisions to
31 other persons, agencies or circumstances shall not be affected
32 thereby. The invalidity of any section or sections or parts of any
33 section or sections of this chapter shall not affect the validity of