

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 1653
Second Edition Engrossed 6/8/94
House Committee Substitute Favorable 6/30/94

Short Title: Durham Housing.

(Local)

Sponsors:

Referred to:

June 1, 1994

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CHARTER OF THE CITY OF DURHAM TO AUTHORIZE THE ACQUISITION OF PROPERTY THAT FAILS TO MEET THE MINIMUM HOUSING CODE IN ORDER TO PROVIDE HOUSING FOR PERSONS WITH LOW OR MODERATE INCOMES AND TO REMOVE THE LIMITATION ON PUNITIVE DAMAGES, AUTHORIZE THE TRIAL JUDGE TO GRANT INJUNCTIVE RELIEF, AND LENGTHEN THE TIME IN WHICH A COMPLAINANT MAY FILE A PRIVATE CAUSE OF ACTION IN HOUSING DISCRIMINATION CASES BROUGHT UNDER THE CITY'S FAIR HOUSING ORDINANCE.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of Durham, being Chapter 671, 1975 Session Laws, is amended by adding the following new section:

"Sec. 74.1. Acquisition of Property by Eminent Domain.

(a) In order to provide housing for persons of low and moderate income, the City shall have the power of eminent domain to acquire property on which is located a dwelling which the City Council or Housing Appeals Board has ordered to be either vacated and closed or removed or demolished.

(b) The City shall not institute an action to acquire property pursuant to this section until at least 30 days after the date of recording, in the office of the Register of Deeds, of the order by the City Council or Housing Appeals Board which ordered that the dwelling be either vacated and closed or removed or demolished.

1 (c) Before exercising the authority granted to it by this section, the City Council
2 shall authorize a program to use condemned property for housing for persons of low and
3 moderate income. The program shall: (i) include or identify sources of financing
4 adequate to demolish or rehabilitate the dwellings acquired pursuant to this section; (ii)
5 designate the geographical areas in which the program will be conducted; and (iii)
6 describe other activities being conducted by or on behalf of the City of Durham within
7 those areas to address housing needs or persons of low and moderate income.

8 (d) The provisions of Chapter 40A of the General Statutes shall apply to the
9 exercise of the power of eminent domain authorized by this section. Vesting of title to
10 the property taken under this section and right to possession thereto shall occur pursuant
11 to the provisions of G.S. 40A-42(b).

12 (e) The initiation of an action to acquire property by eminent domain shall not
13 prevent the City from exercising the powers granted to it by Part 6 of Article 19 of
14 Chapter 160A of the General Statutes, as amended by this Charter and local act, with
15 respect to the property that is the subject of the eminent domain action.

16 (f) Limitations or prohibitions, in any provision of general law, on the use or
17 disposition of property acquired by eminent domain, including but not limited to G.S.
18 160A-279 and G.S. 160A-457, shall not apply to property acquired pursuant to this
19 section. Buildings acquired pursuant to this section may be deemed to be 'private
20 buildings' for purposes of any program of assistance and financing of rehabilitation and
21 construction undertaken by the City principally for the benefit of low- and moderate-
22 income persons.

23 (g) The authority contained in this section is in addition to and not in limitation
24 of any other authority granted by this Charter or any other law."

25 Sec. 1.1. Section 121 of the Charter of the City of Durham, being Chapter
26 671, Session Laws of 1975, as amended by Chapter 373, Session Laws of 1983, Chapter
27 715, Session Laws of 1985, and Chapter 379, Session Laws of 1991, reads as rewritten:

28 "Sec. 121. Equal Housing. The City Council may adopt ordinances prohibiting
29 discrimination on the basis of race, color, sex, religion, national origin, age, familial
30 status, or handicap in real estate transactions. Such ordinances may regulate or prohibit
31 any act, practice, activity or procedure related, directly or indirectly to the sale or rental
32 of public or private housing, which affects or may tend to affect the availability or
33 desirability of housing on an equal basis to all persons; may provide that violations
34 constitute a misdemeanor, and shall be punishable under G.S. 14-4; may subject the
35 offender to civil penalties; and may provide that the City may enforce the ordinances by
36 application to the General Court of Justice, Superior Court Division, for appropriate
37 legal and equitable remedies, including but not limited to, mandatory and prohibitory
38 injunctions and orders of abatement, attorney's fees and ~~not more than one thousand~~
39 ~~dollars (\$1,000)~~ punitive damages, and the court shall have jurisdiction to grant such
40 remedies."

41 Sec. 1.2. Section 121(b) of the Charter of the City of Durham, being Chapter
42 671, Session Laws of 1975, as amended by Chapter 373, Session Laws of 1983, reads as
43 rewritten:

1 (b) Judicial Review of Committee Orders. Judicial review of
2 Committee orders other than arbitration awards shall be in accordance with Article 4 of
3 Chapter ~~150A-150B~~ of the ~~North Carolina~~ General Statutes provided, however, that the
4 provisions of G.S. ~~150A-45-150B-45~~ notwithstanding, petitions for judicial review shall
5 be filed in the Superior Court of Durham ~~County~~ County; provided, further, the
6 provisions of G.S. 150B-51(b) notwithstanding, the trial court judge may grant to the
7 petitioner, or to any other party, such temporary relief, restraining order, or other order
8 as the court determines is just and proper and the trial court judge may affirm, modify,
9 or set aside, in whole or in part, the committee's order, or remand the order for further
10 proceedings and enforce the order to the extent that the order is affirmed or modified.
11 The term 'Agency,' whenever used in Article 4 of the Chapter ~~150A-150B~~ of the North
12 Carolina General Statutes, shall mean the Committee(s) as authorized or created by the
13 City Council of the City of Durham under the authority of this act."

14 Sec. 1.3. Section 124 of the Charter of the City of Durham, being Chapter
15 671, Session Laws of 1975, as amended by Chapter 373, Session Laws of 1983, reads as
16 rewritten:

17 "Sec. 124. (a) Civil Action for Unlawful Housing Practice. An ordinance
18 adopted pursuant to this act may permit any complainant ~~dissatisfied with the Committee's~~
19 ~~final disposition of a matter~~ to bring a civil action in the Superior Court Division of the
20 General Court of Justice of Durham County against the person allegedly engaging in the
21 unlawful practice. Such civil action for a housing practice ~~may not shall~~ be brought
22 ~~more than 60 days after the complainant's receipt of notification of the Committee's final~~
23 ~~disposition of the matter. no later than one year after an alleged discriminatory housing~~
24 practice has occurred or terminated.

25 (b) Injunctions; Equitable Relief. If the court finds that the respondent has
26 engaged in or is engaging in an unlawful housing practice charged in the ~~complaint,~~
27 complaint, the court may enjoin the respondent from engaging in such unlawful housing
28 practice, award special damages, actual damages and ~~award not more than one thousand~~
29 ~~dollars (\$1,000) for additional punitive damages."~~

30 Sec. 2. This act is effective upon ratification.