

GENERAL ASSEMBLY OF NORTH CAROLINA
1993 SESSION

CHAPTER 658
SENATE BILL 1653

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.

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

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

(e) The initiation of an action to acquire property by eminent domain shall not prevent the City from exercising the powers granted to it by Part 6 of Article 19 of

Chapter 160A of the General Statutes, as amended by this Charter and local act, with respect to the property that is the subject of the eminent domain action.

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

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

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

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

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

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

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

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

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

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 1st day of July, 1994.

Dennis A. Wicker
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives