

GENERAL ASSEMBLY OF NORTH CAROLINA
1991 SESSION

CHAPTER 503
HOUSE BILL 764

AN ACT TO AUTHORIZE THE CITY AND COUNTY OF DURHAM TO ALLOW
ZONING DENSITY BONUSES IN PROJECTS CONTAINING SPECIFIED
AMOUNTS OF LOW AND MODERATE INCOME HOUSING.

The General Assembly of North Carolina enacts:

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

"Sec. 94.2. **Low and Moderate Income Housing; Density Bonuses.** – (a) The City Council may provide for the granting of density bonuses in one or more zoning districts in which residential uses are permitted, or provide other incentives of value to a developer of housing within the city and its extraterritorial zoning jurisdiction (if any), if the developer agrees to construct at least fifteen percent (15%) of the total housing units within the development for persons and families of low and moderate income. The size of the density bonus may vary with the percentage of housing units constructed within the development for persons or families of low and moderate income.

(b) The City Council may provide for the enforcement of a developer's commitment to provide low and moderate income housing by ordinance or through the adoption of rules and regulations. Such ordinance or rules and regulations may require the developer to record restrictive covenants applicable to the property, to convey real estate interests in the property, to enter into binding contracts satisfactory to the city or to take any other lawful action prescribed by the city. The city may prescribe the period of time during which the developer's commitment shall be binding.

(c) When used in this section, the following words or terms have the meanings indicated:

- (1) 'Density bonus' means an increase in the number of housing units allowed on the tract of land upon which the development is located, when compared to the maximum number of housing units which would be allowed on the tract of land in the absence of the density bonus.
- (2) 'Low and moderate income' has the meaning prescribed by regulations of the United States Department of Housing and Urban Development applicable to the City of Durham's metropolitan area. In the absence of such regulations, the term 'low and moderate income' shall have the meaning prescribed by the City Council by ordinance or resolution. The term 'low and moderate income' shall also be construed to mean low or moderate income."

Sec. 2. In addition to the other authorization granted by law, Durham County may provide density bonuses in projects containing low and moderate income housing under the provisions:

(a) The County Board of Commissioners may provide for the granting of density bonuses in one or more zoning districts in which residential uses are permitted, or provide other incentives of value to a developer of housing within the county and its extraterritorial zoning jurisdiction (if any), if the developer agrees to construct at least fifteen percent (15%) of the total housing units within the development for persons and families of low and moderate income. The size of the density bonus may vary with the percentage of housing units constructed within the development for persons or families of low and moderate income.

(b) The County Board of Commissioners may provide for the enforcement of a developer's commitment to provide low and moderate income housing by ordinance or through the adoption of rules and regulations. Such ordinance or rules and regulations may require the developer to record restrictive covenants applicable to the property, to convey real estate interests in the property, to enter into binding contracts satisfactory to the county or to take any other lawful action prescribed by the county. The county may prescribe the period of time during which the developer's commitment shall be binding.

(c) When used in this section, the following words or terms have the meanings indicated:

- (1) "Density bonus" means an increase in the number of housing units allowed on the tract of land upon which the development is located, when compared to the maximum number of housing units which would be allowed on the tract of land in the absence of the density bonus.
- (2) "Low and moderate income" has the meaning prescribed by regulations of the United States Department of Housing and Urban Development applicable to the County of Durham. In the absence of such regulations, the term "low and moderate income" shall have the meaning prescribed by the County Board of Commissioners by ordinance or resolution. The term "low and moderate income" shall also be construed to mean low or moderate income.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 2nd day of July, 1991.

James C. Gardner
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives