



MEMORANDUM

To: Assembly Housing and Community Development Committee
From: Nicholas Kikis, Vice President of Legislative & Regulatory Affairs
Date: June 14, 2019
Re: **NJAA Opposition to A-4414 (Timberlake)**

On behalf of the New Jersey Apartment Association (NJAA), and our members who provide both market rate and affordable housing to over one million New Jersey residents, we share in the sponsor's goal of ensuring that New Jersey addresses its affordable housing needs. In fact, we estimate that New Jersey needs to construct more than 150,000 new units of affordable housing over the next decade just to meet demand. We are concerned, however, that A-4414 would upset carefully negotiated affordable housing settlements, run afoul of Supreme Court precedent, and would otherwise be counterproductive toward meeting our affordable housing goals. As such, we respectfully oppose A-4414, and ask you to vote "**NO**" when it comes before the Assembly Housing and Community Development Committee on June 17, 2019.

With the proposed committee amendments, this legislation would impose a one-size-fits-all mandate on all residential development to set-aside 20% of all new units for low- and moderate-income families and another 5% for middle-income families. Alternatively, the legislation allows municipalities to impose a 30% fee on the total cost of construction as a payment in lieu of developing this housing.

As many municipalities settle their fair share housing obligations under the *Mount Laurel* doctrine, New Jersey is finally starting to see progress on affordable housing construction. This comes after almost two decades of uncertainty over affordable housing rules while Council on Affordable Housing regulations were developed and litigated. Imposing new set-aside requirements on projects that are necessary for municipalities to meet their settlement obligations could render certain projects unfeasible and would force municipalities to go back to the drawing board.

Furthermore, an across-the-board affordable housing mandate will not have the desired impact of increasing the production of affordable housing without the accompanying zoning benefits that are currently negotiated between municipalities and housing developers. In numerous cases, the New Jersey Supreme Court has ruled affordable housing set asides or in lieu fees on housing developers must be accompanied by higher density zoning or other compensatory benefits or incentives. Without these zoning benefits, the mandates under A-4414 would constitute an unconstitutional taking.

Once again, the NJAA respectfully opposes A-4414 and we ask that you vote "**NO**" when the legislation comes before you on Monday, June 17, 2019. If you have any questions or if you would like to discuss further, please do not hesitate to contact me at 732-992-0600 or nicholas@njaa.com.

The New Jersey Apartment Association represents over 200,000 multi-family apartment units throughout the State of New Jersey. We are a statewide organization dedicated to maintaining, improving, and building both market-rate and affordable rental housing that serves over one million New Jersey residents.