

In our opinion the transition year of 1954-1955 counts as the first year under section 29.33 in the case of every regional school district that was in operation during that year. Therefore, the year 1959-1960 will be the sixth year under the new program for such schools and the fraction of equalized valuation to be used in computing the fair share of such districts for that year must be increased to .004.

Very truly yours,

DAVID D. FURMAN
Attorney General

By: THOMAS P. COOK
Deputy Attorney General

DECEMBER 16, 1958

HON. SALVATORE A. BONTEMPO
*Commissioner, Department of Conservation
and Economic Development*
State House Annex
Trenton, New Jersey

FORMAL OPINION 1958—No. 20

DEAR COMMISSIONER BONTEMPO:

You have requested our opinion as to whether low rent housing projects constructed under R.S. 55:14A, the Local Housing Authorities Law, must comply with the provisions of the following paragraph taken from R.S. 55:5-7 of the New Jersey Tenement House Act:

"* * * Every tenement house more than two stories in height which is arranged for more than twelve families above the entrance floor shall have a two and one-half gallon fire extinguisher bearing the label of the Underwriters' Laboratories, Inc., and shall be of the type using water or water solution. The fire extinguisher shall be conveniently located in the public hall near the stairs on each floor."

The Tenement House Act does not except any houses from its reach because of the identity or character of their owner or manager. Without more, this would subject the activity of a local housing authority to the strictures of the Tenement House Act administered by the (State) Bureau of Tenement House Supervision (see N.J.S.A. 52:17B-13 and 55:9-1). An immunity from general law administered by one government agency in favor of another government agency is presumed only where the other agency is superior in the hierarchy of government. Cf. *Aviation Services, Inc. v. Board of Adjustment*, 20 N.J. 274, 282 (1956), interpreting *Town of Bloomfield v. New Jersey Highway Auth.*, 18 N.J. 237 (1955), and *Hill v. Borough of Collingswood*, 9 N.J. 369 (1952).

But N.J.S.A. 55:14A-11 removes all doubt:

"All housing projects of [a local housing] authority shall be subject to the planning, zoning, *sanitary and building laws*, ordinances and regulations *applicable to the locality* in which the housing project is situated. * * *"

In *Passaic Jr. Chamber v. Passaic Housing Auth.*, 45 N.J. Super. 381, 388 (App. Div. 1957), it was held that this section subjected local housing authority projects to municipal zoning ordinances. It is clear from the words of the section "laws, ordinances and regulations applicable to the locality" that not only ordinances but statutes (concerning sanitation and building) govern local housing authorities. The language of this section "laws, ordinances and regulations *applicable to the locality*" is in contrast with that of N.J.S.A. 55:7-2 that certain tenement houses "shall comply with all *local ordinances* regulating the construction of buildings." (Emphasis added)

In enacting the Local Housing Authorities Law the Legislature declared:

"* * * that there exist in the State insanitary or unsafe dwelling accommodations and that persons of low income are forced to reside in such insanitary or unsafe accommodations; * * * that the clearance, replanning and reconstruction of the areas in which insanitary or unsafe housing conditions exist and the providing of safe and sanitary dwelling accommodations by any public body for persons of low income are public uses and purposes for which public money may be spent and private property acquired and are governmental functions of State concern; * * *" R.S. 55:14A-2.

While recognizing the existence of insanitary and unsafe dwelling accommodations, the Local Housing Authorities Law is directed mainly to the establishing and financing of municipal housing authorities to combat these evils and is devoid of any provisions establishing safety or sanitary standards for dwelling construction or accommodation. Thus, no conflict as to safety or sanitary standards exists between the Local Housing Authorities Law and the Tenement House Act.

Those who occupy tenement houses constructed pursuant to the Local Housing Authorities Law are entitled to as much protection of their health and lives as those living in tenements elsewhere in the State. Nothing in that law indicates that fire escapes, proper drainage, and similar safety and sanitary safeguards are less needed in tenement houses constructed pursuant to it than in other buildings which fall within the definition of a tenement house. The risk and hazards of occupancy are the same in both instances. The protection and benefits given by the Tenement House Act are as much needed in tenements constructed pursuant to the Local Housing Authorities Act as tenements generally.

You are accordingly advised that low rent housing projects constructed under R.S. 55:14A must comply with the provisions of R.S. 55:5-7.

Very truly yours,

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