

# City of Philadelphia



Council of the City of Philadelphia  
Office of the Chief Clerk  
Room 402, City Hall  
Philadelphia

(Resolution No. 020580)

## RESOLUTION

Authorizing City Council to retain counsel to file a lawsuit to compel the Administration to enforce Bill Number 010659, an ordinance duly enacted by the City Council of Philadelphia which became law on September 12, 2002.

WHEREAS, Bill No. 010659 (the "Bill") which extended eligibility for residential Municipal trash collection to include owners of cooperatives and condominiums, was passed by City Council on June 13, 2002; and

WHEREAS, On September 12, 2002, the Mayor returned the Bill without his signature, which, pursuant to the provisions of Section 2-202 of the Philadelphia Home Rule Charter, made it as legal and binding as if he had signed it; and

WHEREAS, The Mayor stated in a letter that he sent to the Council along with his return of the Bill that he would not enforce it because the City Solicitor advised him that "it exceeds Council's powers under the Home Rule Charter," and because the City can "ill afford" the cost of implementing the legislation; and

WHEREAS, The Mayor cannot withhold enforcement of a law simply because the Solicitor believes that it is illegal or because the Mayor concludes it is too costly to implement. In fact Pennsylvania courts have held consistently that a) Philadelphia has a separation of powers form of government, and b) under such form of government the Executive Branch must implement laws duly enacted by the legislature unless struck down by the Courts; and

WHEREAS, In a separation of powers form of government it is the legislature that makes the laws and policy which guide the executive branch; and

WHEREAS, There is no provision in the Home Rule Charter that gives the City Solicitor the power to advise the Mayor that he need not enforce an ordinance duly enacted by the City Council, nor any provision that allows the Mayor to follow such advice if given; and

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*RESOLUTION NO. 020580 continued*

WHEREAS, To allow the Mayor to withhold enforcement of duly enacted City Council ordinances because of a Solicitor's opinion, and/or because in the Mayor's sole opinion he believes legislation to be too costly, would effectively place complete governing power over the City of Philadelphia in the office of the Mayor, eliminating any effective role for the Council; and

WHEREAS, Such an undue concentration of power in the executive branch would violate the very essence of democratic governance as espoused by the drafters of the Philadelphia Home Rule Charter; now therefore

RESOLVED, BY THE COUNCIL OF THE CITY OF PHILADELPHIA, That City Council is hereby authorized to retain counsel to file a lawsuit to compel the Administration to enforce Bill No. 010659, an Ordinance duly enacted by the City Council of Philadelphia which became law on September 12, 2002.

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*RESOLUTION NO. 020580 continued*

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*RESOLUTION NO. 020580 continued*

CERTIFICATION: This is a true and correct copy of the original Resolution, Adopted by the Council of the City of Philadelphia on the nineteenth of September, 2002.

Anna C. Verna  
PRESIDENT OF THE COUNCIL

Marie B. Hauser  
CHIEF CLERK OF THE COUNCIL

Introduced by: Councilmembers Kenney, DiCicco, Tasco, Ortiz, Nutter, Rizzo,  
Council President Verna, Krajewski and Cohen

Sponsored by: Councilmembers Kenney, DiCicco, Tasco, Ortiz, Nutter, Rizzo,  
Council President Verna, Councilmembers Krajewski and  
Cohen