

Notice Number

Date

**LOCAL FINANCE NOTICE**CHRISTINE TODD WHITMAN  
GOVERNORJANE M. KENNY  
COMMISSIONERULRICH H. STEINBERG, JR.  
DIRECTOR**Required Collection of Solid Waste from Apartments –  
Survey of Municipal Responses to WHS Realty v. Morristown**

In 1999, the Appellate Division of Superior Court in the case of *WHS Realty Company, Inc. v. Town of Morristown* held that a municipal garbage collection ordinance could not exclude multi-family dwellings.

In response to that case and at the urging of the New Jersey State League of Municipalities, the Legislature acted and on May 12, 2000, Governor Whitman signed into law ACS-1848 as P.L. 2000, c.26, a copy of which is enclosed with this Notice. On May 15, 2000 the League sent a letter to Mayors, outlining the law and the opportunity it provided municipalities. The key elements of that letter included:

1. A moratorium on compliance with the Court's decision until January 1, 2001;
2. Agreements entered into prior to the enactment of the law are not affected;
3. The law provides no interference with a municipality negotiating or entering into an agreement with the owners of an apartment building or apartment complex for payment of any portion of solid waste collection and disposal;
4. An exception from the Municipal budget cap law for expenditures necessitated by the decision; and
5. Directs the Department of Community Affairs to survey the progress of negotiations and identify the anticipated fiscal and operational impact of the decision on municipalities.

Department of Community Affairs Commissioner Jane Kenny has directed the Division of Local Government Services to conduct the survey required by P.L. 2000, c.26. After consulting with the League, the attached survey was drafted to obtain information regarding the status of any negotiations with owners of multi-family dwellings; actions, if any, the municipality is considering in response to the law; and the anticipated costs associated with the collection and disposal of solid waste.

To meet the Legislature's deadline to provide them a report by October 1, the Division asks that you **immediately** respond to the survey, and in **no case return it later than September 20**.

Thank you for your cooperation in this matter. This Notice has been sent to Mayor's and Chief Administrative Officers. If you have any questions regarding this survey, please contact the Bureau of Local Management Services at (609) 292-7842.



Ulrich H. Steinberg, Jr., Director  
Division of Local Government Services

Distribution: Mayors and Chief Administrative Officers

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**INSTRUCTIONS FOR COMPLETION OF APARTMENT SOLID WASTE SURVEY**

- **Throughout the survey, place an “X” in the box that best answers the question for your municipality.**
- **If a written response is called for, please write clearly or type your answer.**
- **“Multi-family” dwellings refer to any taxable buildings, apartments or garden apartments that do not receive the benefit of municipal solid waste collection. Multi-family parcels that receive collection services and tax-exempt properties are excluded from this survey.**
- **Please use additional sheets of paper if there is insufficient room to answer the question.**

**Identifying information:** Identify your municipality and give the name of the person that can be contact for additional information.

**Questions:**

1. Indicate whether the municipality is affected by the decision.
  - If NO, please be sure to indicate the reason the municipality is not affected by the decision. Return the Survey to the Division without answering the remaining questions.
  - If YES, please be sure to indicate the reason the municipality is affected by the decision in question 1b.
2. Write in the number of structures within the municipality that are estimated to be affected by the ruling. For garden apartments, please indicate the total number of structures.
3. These questions ask if the municipality has used the provisions of P.L. 2000, c.26 to negotiate with apartment owners about the costs of solid waste collection and disposal.
  - a) Indicate whether plans have been made to provide solid waste collection for the affected residents. If “NO,” skip to Question 3(c).
  - b) If the municipality has addressed the issue or began to address the issue, indicate what actions have been taken: negotiation, commencement of the collection process, or some other action.
  - c) If no plans have been made at this time, indicate what, if any, actions are planned.
4. This question asks if cost estimates have been made regarding the cost of providing collection and disposal services to multi-family dwellings. If actual amounts are available, please enter them, if not, use estimates.

**If you have questions concerning the survey, please contact us at (609) 292-7842.**

## Public Laws of 2000, Chapter 26

**An Act** concerning the provision of municipal solid waste collection services to apartment residents, supplementing Title 40 of the Revised Statutes and amending P.L.1976, c.68.

**Be It Enacted** by the Senate and General Assembly of the State of New Jersey:

1. The Legislature finds and declares:

The decision of the New Jersey Superior Court, Appellate Division, in WHS Realty Company, Inc. v. Town of Morristown, 323 N.J. Super. 553 (App. Div. 1999), cert. den., 162 N.J.489 (1999), which held that a municipal garbage collection ordinance could not exclude apartment buildings and garden apartment complexes on the basis of equal protection, imposes a substantial financial impact on municipalities which cannot reasonably be provided for without adequate time for planning.

A number of municipalities and apartment owners have already entered into, or have started negotiating, mutually acceptable agreements for the implementation of the WHS Realty decision.

It is therefore in the public interest to provide adequate time to the municipalities and apartment owners to continue their negotiations for the orderly implementation of the court decision so as not to cause any undue financial impact on the municipalities.

2. No municipality shall be liable for any payments relating to trash collection from any apartment building or from any apartment complex for any period prior to the municipal budget year beginning on or after January 1, 2001. Nothing herein shall affect any agreements entered into prior to the enactment of P.L.2000, c.26) or prevent any municipality from negotiating or entering into an agreement under which the municipality will reimburse the owners of an apartment building or apartment complex for any portion of the costs of solid waste collection and disposal.

3. The Department of Community Affairs shall survey the progress of negotiations of agreements between municipalities and apartment owners to address the issues of the collection and disposal of solid waste generated by the residents of the qualified apartment buildings and garden apartment complexes and submit a report to the Senate and General Assembly on the anticipated fiscal and operational impact on municipalities on or before October 1, 2000.

4. Section 3 of P.L.1976, c.68 (C.40A:4-45.3) is amended to read as follows:

C.40A:4-45.3 Municipalities; limitation exceptions. (New cap exemption):

(New sub-section) kk. Amounts expended to provide municipal services or reimbursement amounts to qualified apartment buildings and garden apartment complexes for the collection and disposal of solid waste generated by the residents of the qualified apartment buildings and garden apartment complexes. This exception shall apply to all agreements for reimbursement entered into after July 27, 1999.

5. This act shall take effect immediately.

Approved May 11, 2000