

RESOLUTION 82- 175
OF THE COUNCIL OF THE CITY OF FORT COLLINS
SUPPORTING APPROPRIATE EXEMPTION FOR
MUNICIPALITIES FROM ANTI-TRUST LIABILITY

WHEREAS, the exposure of municipalities in Colorado and throughout the country to federal antitrust lawsuits has been greatly expanded as a result of recent decisions of the United States Supreme Court, and

WHEREAS, the potential for treble damage awards and the substantial expense of defending antitrust litigation, even is successful, may inhibit municipalities from enacting or enforcing regulations which are intended to protect the public health, safety and welfare, but which also may be deemed to restrict competition, and

WHEREAS, at least four Colorado municipalities already have been sued under the federal antitrust laws for various regulatory activities, with claimed damages, when trebled, exceeding \$100 million, and

WHEREAS, the cost to the taxpayers of one Colorado municipality in defending one of these lawsuits, which was settled prior to trial, exceeded \$250,000, and

WHEREAS, municipalities differ from private enterprise in that private enterprise is not charged with protecting the public health, safety and welfare, and

WHEREAS, numerous protections from municipal regulations, other than treble damages under the federal antitrust laws, are available such as, public notice, public hearing, public meeting and public record requirements, court review of actions, periodic elections and the rights of initiated referendum and recall, and the continuing authority of the state General Assembly or the people of Colorado to modify the statutory and constitutional authority of Colorado's municipalities, and

WHEREAS, state legislation does not provide any certain solution to the problem, and years of litigation will be necessary to decide whether any state legislation meets the test established by the U S Supreme Court for local government antitrust immunity, and

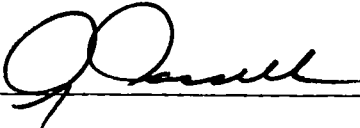
WHEREAS, federal legislation can address the problem directly by seeking a specific exemption from the federal antitrust laws for local governments and all or some of their activities, and

WHEREAS, federal legislation could eliminate damages from the anti-trust remedies available against local governments and their taxpayers, and

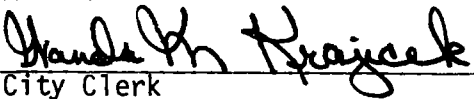
WHEREAS, local governments should not be imperiled when engaging in traditional local government regulatory activities such as zoning, enacting and enforcing building and fire codes, regulating the use of public rights-of-way, licensing, franchising and the myriad of other regulatory activities traditionally engaged in by local governments

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS that the City Council urges the Congress of the United States to act as quickly as possible to provide appropriate exemptions for municipalities from federal antitrust liability

Passed and adopted at a regular meeting of the Council of the City of Fort Collins this 7th day of December, 1982

Mayor 

ATTEST


City Clerk