

ORDINANCE NO. 3663, As Amended

AN ORDINANCE TO AMEND THE CODE OF THE TOWNSHIP OF FRANKLIN, COUNTY OF SOMERSET, STATE OF NEW JERSEY, MORE PARTICULARLY, CHAPTER 54, POLITICAL CONTRIBUTIONS BY ADDING A NEW ARTICLE II, PROHIBITION OF ENTERING INTO OR AMENDING REDEVELOPMENT AGREEMENTS WITH CERTAIN CONTRIBUTORS.

SUMMARY

An Ordinance to amending Chapter, 54, Political Contributions by adding a new Article II, Prohibition of Entering into or Amending Redevelopment Agreements with Certain Contributors.

~~WHEREAS, it has become more frequent for developers, sometimes at the request of candidates for local elected office or political party officials, to make substantial political contributions to the election campaigns for local government offices, and to the political parties which support them; and~~

~~WHEREAS, the local government officials are, once elected, responsible for deciding the terms of a redevelopment agreement; and~~

~~WHEREAS, political contributions from developers entering into agreements for redevelopment projects approved by the elected officials who receive such contributions raise reasonable concerns on the part of taxpayers and residents as to their trust in the process of local redevelopment, including but not limited to redevelopment decisions on tax abatements, zoning densities, publicly funded infrastructure improvements, and acquisition of property rights pursuant to eminent domain; and~~

WHEREAS, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 *et seq.* provides a mechanism to empower and assist local governments in efforts to promote programs for redevelopment; and

WHEREAS, N.J.S.A. 40A:12A-8 allows municipalities or a designated redevelopment entity to enter into agreements with redevelopers for planning, replanning, construction or undertaking of any project or redevelopment work without public bidding and at such prices and upon such terms as it deems reasonable within areas designated for redevelopment; and

WHEREAS, N.J.S.A. 40A:12A-11 provides that redevelopment entities are instrumentalities of the municipality; and

WHEREAS, the Township of Franklin has declared certain areas of the Township to be Areas in Need of Redevelopment under the Local Redevelopment and Housing Law, and has adopted a Redevelopment Plan; and

WHEREAS, given the potential of negotiating with private parties or redevelopers and the entering into agreements with such redevelopers without a formal public bidding process, as permitted by the Local Redevelopment and Housing Law, it is necessary to establish certain limitations on political contributions which may undermine public confidence in any redevelopment effort; and

WHEREAS, the restriction against local political contributions contained herein does not impair in any way the remaining opportunities for such redevelopers to speak, write and publish their sentiments about local elections and candidates or to volunteer or associate with campaigns of their own choosing; and

NOW THEREFORE BE IT ORDAINED by the Township Council of the Township of Franklin, in the County of Somerset and State of New Jersey, that the policy of the Township will be to create such a regulation which states that any entity or individual seeking to enter into a redevelopment agreement or amendment thereto or is otherwise seeking to obtain rights to develop pursuant to a redevelopment agreement, who makes political contributions to Township elected officials and local and county political committees, will be ineligible to receive such agreements, or rights from the Township.

BE IT FURTHER ORDAINED that Chapter 54, Political Contributions is hereby amended with the addition of New Article II as follows:

Article II
Prohibition of Entering into or Amending Redevelopment Agreements with Certain Contributors

§54-6. Prohibition of entering into or amending redevelopment agreements with certain contributors

- A. Any other provision of law to the contrary notwithstanding, the Township of Franklin (hereinafter “Township”) or any of its purchasing agents or agencies or those of its independent authorities, as the case may be, shall not enter into an agreement, amend an agreement, or otherwise contract with any redeveloper for the planning, replanning, construction or undertaking of any redevelopment project, including the acquisition or leasing of any public property in conjunction with the redevelopment of any area within the Township pursuant to the Local Redevelopment and Housing Law, if that redeveloper has made any contribution of money or pledge of a contribution, including in-kind contributions, during the applicable time period as specified below, to a campaign committee of any Township candidate or holder of public office within the Township having responsibility for arranging, entering into, or approving the redevelopment agreement, or for appointing those who enter into the agreement on behalf of the Township or; to any municipal political campaign committee, or to any Somerset County party committee, or to any political action committee which regularly engages in the support of municipal elections and/or municipal parties or which engages in the support of Township municipal campaigns (PAC). For purposes of this section, the “applicable time period” shall be defined as the time period between the date that the property which is the subject of the redevelopment project has been included in a memorializing resolution adopted by the governing body directing the planning board to conduct a preliminary investigation to determine if the site is in need of redevelopment pursuant to and in accordance with the New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 *et seq.*, and the date of entering into the redevelopment agreement.
- B. All redevelopment agreements or amendments thereto entered into by the Township shall contain a provision prohibiting developers as defined in section (c) to solicit or make any contribution of money or pledge of a contribution including in-kind contributions, to any Township candidate or holder of public office within the Township having responsibility for arranging, entering into, or approving the redevelopment agreement, or for appointing those who enter into the agreement on behalf of the Township or; to any Township political campaign committee, or to any Township or Somerset County Party Committee, or to any political action committee which regularly engages in the support of municipal elections and/or municipal parties or which engages in the support of Township municipal campaigns (PAC), between the time of first communication between that redeveloper and the municipality regarding a redevelopment project and the later of the termination of negotiations or the completion of all matters specified in the redevelopment agreement.
- C. As defined in N.J.S.A. 40A:12A-3, a “redeveloper” means any person, firm, corporation or public body that shall enter into or propose to enter into a contract with

a municipality or other redevelopment entity for the redevelopment or rehabilitation of an area in need of redevelopment, or an area in need of rehabilitation, or any part thereof, under the provisions of this act, or for any construction or other work forming part of a redevelopment or rehabilitation project.. For the purposes of this ordinance the definition of a redeveloper includes all principals who own ten percent (10%) or more of the equity in the corporation or business trust, partners, and officers in the aggregate employed by the provider as well as any affiliates or subsidiaries directly controlled by the redeveloper. Spouses and adult children at home shall also be included. For the purposes of this ordinance the definition of “redeveloper” shall exclude any person, firm, or corporation that is the owner of the real property that is the subject of the redevelopment agreement. In order to qualify for this exclusion the owner of the real property must be the sole owner of all the real property which is the subject of the redevelopment contract or agreement on the date they were designated the redeveloper and no provision of the redevelopment contract or agreement shall:

1. require or in any way authorize the use of the powers of eminent domain by the redevelopment entity or the Township; or,
2. provided for any tax abatement, tax exemption; or
3. require the expenditure or contribution of any public funds; or
4. provide for Redevelopment Area Bond Financing; or
5. provided for the establishment of a Revenue Allocation District; or
6. provide for an Urban Enterprise Zone Grant.

D. For the purposes of this section, the office that is considered to have responsibility for arranging and entering into the redevelopment agreement under the Act shall be:

1. The Township Council if the redevelopment agreement requires approval or appropriation from the Council or a public officer who is responsible for arranging and entering into the redevelopment agreement if that public officer is appointed by Council; or
2. The Franklin Township Redevelopment Agency, if they are the designated redevelopment entity.

§54-7. Contributions made prior to the effective date

No contribution of money or any other thing of value, including in-kind contributions, made by a redeveloper to any Township candidate for Mayor or Township Council or Township political campaign committee shall be deemed a violation of this section nor shall an agreement for redevelopment projects of any kind whatsoever be disqualified thereby if that contribution or agreement was made by the redeveloper prior to the effective date of this section.

§54-8. Notice given by Municipality; Sworn Statement of Redeveloper

- A. It shall be the municipality’s continuing responsibility to give notice of this Section when the municipality gives notice of redevelopment pursuant to 40A:12A-6 and when the municipality adopts a resolution directing the planning board to prepare a redevelopment plan and at the time that the municipality adopts the ordinance to implement the redevelopment plan.
- B. Prior to arranging and entering into the redevelopment agreement with any redeveloper, the Township or any of its purchasing agents or agencies or independent authorities, as the case may be, shall receive a sworn statement from the redeveloper that the redeveloper has not made any contribution in violation of Section 1(a) above.

Furthermore, the redeveloper shall have a continuing duty to report any violations of this ordinance that may occur while arranging and entering into the redevelopment agreement, and until all specified terms of the agreement have been completed. The certification required under this subsection shall be made prior to entry into the agreement with the municipality and shall be in addition to any other certifications that may be required by any other provision of law.

§54-9. Contribution Restrictions and Disclosure Requirement Applicability to Consultants

- A. The contribution and disclosure requirements in this Ordinance shall apply to all redevelopers as well as professionals, consultants or lobbyists contracted or employed by the business entity ultimately designated as the redeveloper to provide services related to the:
 - 1. Lobbying of government officials in connection with the examination of an area and its designation as an area in need of redevelopment or in connection with the preparation, consultation and adoption of the redevelopment plan.
 - 2. Obtaining the designation or appointment as redeveloper
 - 3. Negotiating the terms of a redevelopment agreement or any amendments or modifications thereto; and
 - 4. Performing the terms of a redevelopment agreement
- B. It shall be a breach of the consultant's contract, and shall require immediate termination, for a consultant to violate the contribution limits and disclosure requirements in this Ordinance.
- C. A redeveloper who participates in, or facilitates, the circumvention of the contribution restrictions through consultants or professionals shall be deemed to be in breach.

§54-10. Return of Excess Contributions

A redeveloper or municipal candidate or officeholder or municipal or county party committee or PAC referenced in this ordinance may cure a violation of Section 1 of this Act, if, within 30 days after the date on which the applicable ELEC Report is published, the redeveloper notifies the Municipal Council in writing and seeks and receives reimbursement of a contribution from the municipal candidate or municipal or county political party or PAC referenced in this ordinance.

§54-11. Penalty

- A. It shall be a breach of the terms of the Township redevelopment agreement for a redeveloper to: (i) make or solicit a contribution in violation of this ordinance; (ii) knowingly conceal or misrepresent a contribution given or received; (iii) make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution; (iv) make or solicit any contribution on the condition or with the agreement that it will be contributed to a campaign committee of any candidate or holder of the public office of Township; (v) engage or employ a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any contribution, which if made or solicited by the redeveloper itself, would subject that entity to the restrictions of this ordinance; (vi) fund contributions made by third parties, including consultants, attorneys, family members, and employees; (vii) engage in any exchange of contributions to circumvent the intent of this ordinance; or (viii) directly or indirectly, through or by any other person or means, do any act which would subject that entity to the restrictions of this ordinance.

- B. Futhermore, any redeveloper who violates (a) ii-viii shall be disqualified from eligibility for future Township redevelopment agreements for a period of four calendar years from the date of the violation.

BE IT FURTHER ORDAINED, that the provisions of this Ordinance shall be severable. In the event that any portion of this Ordinance is found to be invalid for any reason by any Court of competent jurisdiction, such judgment shall be limited in its effect only to the portion of the Ordinance actually adjudged invalid and shall not be deemed to affect the operation of any other portion thereof, which shall remain in full force and effect.

BE IT FURTHER ORDAINED, that this Ordinance shall take effect immediately upon final passage and publication in accordance with the law.

BE IT FURTHER ORDAINED, that all other Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

ORDINANCE NO. 3663

THIS IS A TRUE COPY OF AN ORDINANCE ADOPTED BY THE
TOWNSHIP COUNCIL, TOWNSHIP OF FRANKLIN, SOMERSET, NJ

INTRODUCED:	May 22, 2007
PUBLIC HEARING:	June 12, 2007
AMENDED:	June 12, 2007
ADOPTED:	June 12, 2007
NOTICE OF FINAL ADOPTION:	June 16, 2007
EFFECTIVE DATE:	July 2, 2007

Ann Marie McCarthy, Township Clerk