

ORDINANCE NO. 2009-12

**ORDINANCE OF THE BOROUGH OF RED BANK,
COUNTY OF MONMOUTH, NEW JERSEY
AMENDING AND SUPPLEMENTING CHAPTER II,
ADDING SECTION 77, "USE OF EMINENT DOMAIN"**

WHEREAS, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 *et seq.*, authorizes those municipalities that have designated specific properties as areas "in need of redevelopment" to exercise the power of eminent domain and to transfer those properties to a private developer under certain conditions; and

WHEREAS, notwithstanding that the Borough has never designated any area as being "in need of development," and has no plans to do so, a number of residents and property owners have expressed concerns about the possibility that their property could somehow one day be subject to eminent domain in furtherance of a redevelopment project;

WHEREAS, in order to allay any such concerns, the Borough wishes to codify its consistently maintained policy that it would not use its powers of eminent domain to acquire any privately owned property in furtherance of any redevelopment project, in order to sell or transfer such properties to a private developer;

NOW, THEREFORE, BE IT ORDAINED by the Governing Body of the Borough of Red Bank that Chapter II of the Revised General Ordinances of the Borough of Red Bank, Monmouth County, is hereby amended by creating new Section Seventy-Seven, entitled "Use of Eminent Domain."

SECTION ONE: Subsection 2-77 is hereby created as follows (stricken text denotes deletions, underlined text denote additions):

2-77 EMINENT DOMAIN.

2-77.1 Purpose and Intent. It is the purpose and intent of the Borough of Red Bank to restrict the use of its authority pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. as that law may be amended and supplemented, to exercise the power of eminent domain in order to transfer any privately owned properties to a private developer.

2-77.2 Eminent Domain Pursuant to the Local Housing and Redevelopment Law Prohibited. The Mayor and Council shall not exercise the power of eminent domain pursuant to the Local Redevelopment and Housing Law to acquire any privately owned property within any redevelopment area created within the Borough for the purpose of selling or transferring such property to a developer or other private entity in furtherance of any redevelopment project.

SECTION TWO: Any ordinances or portions thereof which are inconsistent with the provisions of this Ordinance are hereby repealed as of the effective date of this Ordinance. All other provisions of the Revised General Ordinances are ratified and remain in full force and effect.

SECTION THREE: If any provision of this Ordinance or the application of such provision to any person or circumstance is declared invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect, and to this end, the provisions of this Ordinance are declared to be severable.

SECTION FOUR: This Ordinance shall take effect immediately upon its passage and adoption according to law.

First Reading: March 23, 2009

Final Reading: April 13, 2009