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State Comptroller Investigation Finds Local Official Exploited Government Position to Turn Profit on Land Deal

Report calls for increased penalties for violations of ethics laws

An Office of the State Comptroller (OSC) investigation has determined that a Chesterfield Township committeeman improperly used his government position in facilitating a private land deal that brought him substantial profit.

State Comptroller Matthew Boxer said the investigation highlights how weaknesses in current state law can leave local planning board decisions vulnerable to the personal interests of public officials.

"As towns across New Jersey start to rebuild in the wake of Sandy, it is vital that we protect the integrity of the process through which local planning boards make decisions about growth and development," Boxer said. "As our investigation in Chesterfield shows, planning officials need to address potential conflicts carefully, and we need tougher penalties to deter public officials who would compromise planning decisions for personal gain."

The OSC investigation found that longtime Chesterfield Mayor, Committeeman and Planning Board member Lawrence C. Durr used his political influence and insider knowledge to push a complicated development project through multiple governmental hurdles. All the while, Durr shielded the fact that he personally had more than a million dollars at stake in the outcome.

The OSC report recommends the maximum fine for a violation of the Local Government Ethics Law be increased from $500 to $10,000, consistent with the sanctions for state employees engaging in ethical misconduct. The report also provides guidance to local officials addressing potential conflicts of interest involving planning boards.

OSC concluded that Durr violated the Local Government Ethics Law on several occasions in furthering a land deal involving the township's Transfer of Development Rights (TDR) program. The TDR program was designed as a tool for municipalities looking to preserve farmland and direct growth to more appropriate areas. Under the program, developers pay landowners the difference between what their land is worth as a farm and its value as developed property. That value is calculated in the form of TDR "credits." The landowners then agree to restrict development on the property and the developers use the credits they purchase to build in a separate area designated by the locality for growth.

Durr took issue with the number of TDR credits assigned to property he had purchased in Chesterfield. In seeking additional credits, he represented himself before the local planning board of which he was a member and whose other members he had a role in appointing. The minutes of the proceeding reveal that he "stepped down" from the dais to make the presentation to his colleagues, was awarded an additional 10.25 credits and then "returned to the dais" to vote on other matters. The additional credits netted him $666,250.

Even before he had been awarded the additional TDR credits, Durr had reached an agreement to sell his credits to a developer. However, the agreement still left the developer short of the number of credits it needed to proceed with its project. Durr, acting as Chesterfield Township's representative, then intervened with a county entity and persuaded it to make additional credits available for sale to the developer. Durr did not disclose his personal stake in the project. He took those steps despite previously having urged the county not to intervene when another developer had sought a similar arrangement.

Later, in April 2007, when the developer with whom Durr had the pending contract sought a reduction in the number of credits it needed to proceed with its project, Durr made the necessary motion before the township committee and voted in favor. The approval of the amendment saved the developer more than $1 million.

Three months later, Durr closed on his sale of $2.37 million in TDR credits to the developer, the largest amount ever received by a Chesterfield landowner in the history of its TDR program. Durr's 15-month investment yielded him a profit of nearly $200,000 as well as debt-free title to more than 100 acres of preserved farmland. Throughout the process, Durr never disclosed his financial agreement with the developer to local officials. He also failed to disclose the relationship on state financial disclosure forms designed to elicit such information.

"The integrity of any market-based system, including one involving TDRs, is dependent on the prevention of self-dealing by market insiders," Boxer said. "What happened here is akin to insider trading. It is vital for the future credibility of TDR as a land use strategy that those responsible for its administration not use their privileged position for personal advantage."

While OSC is referring its report to the Local Finance Board to consider and assess penalties for violations of the Local Government Ethics Law, the report noted that the maximum fine for such a violation is merely $500.

“When more than a million dollars is at stake, a $500 fine becomes merely a cost of doing business,” Boxer said.

OSC undertook its investigation after receiving a complaint from a Chesterfield resident. The office’s findings have been referred to the state’s Division of Criminal Justice to determine whether criminal prosecution would be appropriate.