

RESOLUTION OF THE HOUSING AUTHORITY OF THE CITY OF RAHWAY

RESOLUTION NO. 1513

DATE OF ADOPTION: MARCH 10, 2016

SUBJECT: RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO EXPLORE THE REGULATIONS WITH THE PARKING AUTHORITY TO SATISFY NJDEP ISSUES STEMMING FROM THE "DIRT" DEPOSITED IN THE BACKYARD OF 804 LEESVILLE AVENUE FOR A LIMITED TIME FRAME

THE FOLLOWING RESOLUTION was presented by the Executive Director/Secretary at a Regular Meeting held on March 10, 2016:

WHEREAS, over 50 years ago, the Army Corp of Engineers, to control flooding from the Rahway River, built a levee; and

WHEREAS, in building this levee, some of the twists and turns of the river were eliminated and some of the old river bank areas are now behind the levee; and

WHEREAS, these "new land areas" property rights were never transferred to the adjacent land owners; and

WHEREAS, part of 804 Leesville Avenue's "backyard" is one of these new land areas created by the levee; and

WHEREAS, on or about 2002, dirt was deposited in the backyard of 804 Leesville Avenue when HomeVision built the houses along Leesville Avenue and some of the dirt was left over and not needed as "fill"; and

WHEREAS, Rahway Housing was aware of the Army Corp of Engineers right to enter the property along the levee in case it needed repair (easement); and

WHEREAS, the issue of "ownership" of part of the backyard never became an issue since Rahway Housing Authority never had plans to build anything on this part of the backyard; and

WHEREAS, during the appropriate due diligence by the Rahway Parking Authority, the potential buyer of 804 Leesville Avenue, upon presenting its intention of building on said property, it was then presented with this ownership issue; and

WHEREAS, the ensuing results from NJDEP was there were possible fines of the soil deposited upon this area, still owned by the State; and

WHEREAS, it thus appears that Rahway Housing Authority unintentionally deposited dirt on State property; and

WHEREAS, the original contract presented by the Parking Authority had a clause requiring the Rahway Housing Authority to be liable for these potential fines and could be interpreted as a "Blank Check" to a third party without recourse in perpetuity; and

WHEREAS, Rahway Housing Authority requested the clause be removed from the otherwise "as-is" contract and in return RHA would "own-up" to the responsibility of its actions for possible fines levied by NJDEP; and

WHEREAS, in the Contract for the sale of 804 Leesville Avenue, the clause in question of NJDEP fines has been removed at RHA's request; and

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of the Rahway Housing Authority authorizes the Executive Director to explore the regulations and possible fines from NJDEP for the dirt deposited in the backyard of 804 Leesville Avenue and to negotiate a resolution of any exposure for the same. The final resolution of which will be brought back before the Board of Commissioners.

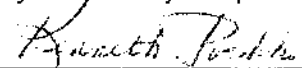
BE IT FURTHER RESOLVED that the authority will be responsible for fines from NJDEP directly.

COMMISSIONER Lesinski made a motion to adopt the above resolution, which was seconded by **COMMISSIONER** Thomas and on a roll call vote the Ayes and Nays were as follows:

<u>AYES</u>	<u>NAYS</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Lesinski			
Parson			
Pekarofski			
Ragan			
Simon			
Snowden			
Thomas			

THE CHAIRPERSON thereupon declared Resolution No. 1513 adopted.

I certify that the foregoing is a true copy of a resolution of the Housing Authority of the City of Rahway adopted on March 10, 2016



Kenneth Pushko
Executive Director/Secretary