



From: NJLM - Municipal Clerks [mailto:njlm-clerks@cityconnections.com]
Sent: Thursday, June 25, 2009 4:14 PM
To: Lashway, Lisa
Subject: From NJLM - Two Mayors Ltrs

LEAGUE ALERT

Municipal Clerk: Please forward to Mayor and Governing Body.

June 25, 2009

Re: I NJLM Foundation Publishes 2nd Issue Paper

Re: II Supreme Court Rules Open Space Set Asides and Contributions Not Authorized by MLUL

Re: I. NJLM Foundation Publishes 2nd Issue Paper

Dear Mayor:

The League's Educational Foundation has issued its second "Friends of Local Government" issue paper series. Volume 1, number 2 of the "Friends of Local Government" is entitled, A Local Reality Check: The American Recovery and Reinvestment Act of 2009. In this paper Stephen L. Kehs and Tammy Wetzel offer a review of the American Recovery and Reinvestment Act of 2009, focusing on the impact on local governments.

For more, please see the "Friends of Local Government" page at:
<http://www.njlmef.org/policy-papers.html>

Very truly yours,

William G. Dressel, Jr.
Executive Director

Re: II. Supreme Court Rules Open Space Set Asides and Contributions Not Authorized by MLUL

Dear Mayor:

The New Jersey Supreme Court has affirmed the Appellate Division and held that municipalities may only require on-site open space set asides from developers of Planned Unit Developments. In the case of *NJ Shore Builders v Township of Jackson* and *Builders League of South Jersey v Egg Harbor Township*, the Court found that municipal ordinances requiring such set asides for other types of development are not authorized by the Municipal Land Use Law (MLUL) and therefore are invalid.

The opinion also held that municipalities had no authority to require payments in lieu of such set asides from developers. The court noted that contributions may be required under the MLUL for certain off-tract improvements, but these improvements are statutorily limited to "water, sewer, drainage, and street improvements."

The Court acknowledged that recreation and open space were important considerations in land use planning under the MLUL, but held that more specific authorization was required for municipalities to require set asides or contributions from developers for these purposes, and such authority did not exist in the statutes.

To access this case, please go to:

<http://www.judiciary.state.nj.us/opinions/index.htm>

If you have any questions or concerns about this communication, please contact Deborah M. Kole, Staff Attorney, at the League, ex. 137, or at dkole@njslom.com

Very truly yours,

William G. Dressel, Jr.
Executive Director

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