

## THE EXPRESS-TIMES

### McGreevey key to suit

Builder says creation of Highlands Act violates his rights and politics corrupted drawing of lines.

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By LYNN OLANOFF  
The Express-Times

A builder who lost out on a 20-home development in Liberty Township is trying to upend the Highlands Act with a lawsuit claiming his constitutional rights were violated and political patronage played a role in the law's creation.

A court decision last week grants Jacob Bogatch the ability to depose former Gov. James E. McGreevey, who admits in his recent memoir that pressure from developers and politicians forced changes to the controversial law.

"I hope he'll tell me the truth on how he did it -- that some of the big developers could get their projects out of the map," Bogatch said. "If we can expose just 1 percent of this corruption, it's going to kill the whole law."

Bogatch and his attorneys think McGreevey's testimony will help their argument that Bogatch's constitutional equal-protection rights have been violated. They claim other developers had the opportunity to lobby politicians to keep their land out of the Highlands and he didn't.

The Highlands Act was enacted in August 2004 to protect 860,000 acres in northwest New Jersey that provide 65 percent of the state's drinking water. Critics have long maintained political influence weighed heavily on which acreage was restricted from development.

Bogatch's attorney John Abromitis decided to depose McGreevey after reading his 2006 memoir, "The Confession." The book is characterized as being thoroughly honest not only about McGreevey's sexuality but New Jersey politics. McGreevey resigned two days after signing the Highlands Act into law because of an extramarital affair with a male aide.

Larry Cohen, another partner at Courter, Kobert & Cohen in Allamuchy Township, said McGreevey's book and a 2004 Star-Ledger article also being used in their court arguments show a pattern. Developers who donated to the Democratic Party or had the ear of politicians could have their land removed from the Highlands preservation area, Cohen said.

McGreevey "called it 'horse-trading' in the book," Cohen said.

Bogatch hasn't read the book.

"I can't read such sleazy things," he said.

McGreevey, his former environmental protection Commissioner Bradley Campbell, his former counsel Eric Shuffler and his former deputy director Curtis Fisher are scheduled to be deposed next month.

The state attorney general's office has been defending Bogatch's lawsuit, which state officials have tried to

have dismissed.

"We intend to defend the validity of the statute," said Lee Moore, a spokesman for the attorney general's office. He declined further comment because the case is pending.

Bogatch also is contesting the Highlands Act's retroactive provision. His 20-home development on Townsbury Road was approved by Liberty's planning board July 24, 2004, more than two weeks before the Highlands Act was signed into law Aug. 10. The act, however, forbids any major development without approvals before March 29, 2004.

Bogatch's lawsuit argues the act's retroactive provision constitutes manifest injustice. His lawsuit asks the law be declared unconstitutional.

His 40-home development on Petersburg Road in Independence also had local approvals before the Highlands Act was passed, but he hadn't received a required stream encroachment permit from the state. That project is not included in his lawsuit.

Bogatch had been negotiating with the state to purchase his land in Independence for open space. But he was put off by the state's offer of \$950,000 for the 170 acres he said is worth \$5.4 million.

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### Legislators react

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Two legislators reacted Thursday to a judge's decision allowing a developer to depose former Gov. Jim McGreevey in a lawsuit filed over the Highlands Act.

Assemblyman Michael Doherty, R-Warren, and Assemblywoman Marcia Karrow, R-Hunterdon/Warren, agreed that the mapping of the Highlands region was influenced by politics.

"I think the Highlands Act has been all about politics from day one," Doherty said.

He said county and local officials were already working to preserve land in the affected areas before the Highlands Preservation Act. Although the state knew it would be difficult to sell the preservation blueprint locally, he said, state officials used politically connected firms to push it through.

"I believe that this was cooked up in back rooms with people in Trenton."

Karrow said freeholders questioned the state Department of Environmental Protection on the plan's boundaries in 2004 and again in 2005 and 2006.

"The DEP kept saying that those lines were absolutely scientifically drawn," she said.

But in a recent meeting with Hunterdon County officials, she said, the DEP called the boundaries "administrative lines."

"They're spinning the story," she said. "These were politically drawn lines and not scientifically drawn lines. ... We've been saying this all along."

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