

# The Star-Ledger

## McGreevey's book fuels builder's suit

'Confession' part of Highlands Act challenge

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When he released his memoir, "The Confession," a few months ago, former Gov. James E. McGreevey said he felt the need to be "painstakingly honest" about both his political and personal life.

Now his words about behind-the-scenes deal-making and how those with political juice had access to top decision-makers are being used in a lawsuit by a Rockaway Township developer challenging a piece of McGreevey's legacy: the landmark Highlands Preservation Act.

Attorneys for developer Jacob Bogatch also will have a chance to quiz McGreevey personally. They have issued subpoenas to the former governor and several top officials in his administration to be deposed under oath. The state is not objecting to this questioning, which is expected next month.

Bogatch, 56, contends he personally lost out on an approved development because he did not have political connections.

"Somebody has to stand up in front of this government and show them there is accountability for their actions," he said. "Small builders like me don't go to the governor's mansion in Princeton. ... I will not sit quietly by."

Four years ago, Bogatch bought 60 acres of woods in Liberty Township, Warren County, for \$520,000. He planned to build 20 3,000-square-foot homes and sell them for \$500,000 or more apiece. After delays in planning and design because of water and sewage concerns, the development won approval in July 2004.

The next month, McGreevey signed into law the Highlands Act to preserve 395,000 acres of environmentally sensitive terrain across a huge swath of northwestern New Jersey. The new statute was designed to protect the main water source for much of the state's population and made construction all but forbidden for any project that had not been approved before the end of March 2004.

Instead of 20 homes, Bogatch would be allowed to build one. In his suit, the developer claims the Highlands law violated his constitutional rights by retroactively taking away his ability to use his private property.

Two days after he signed the Highlands law, McGreevey made the stunning announcement he had an affair with a male staffer and would leave office more than a year before the end of his term. This past September, McGreevey released his much-anticipated autobiography, which initially hit the best-seller list.

McGreevey said he wrote "The Confession" as part of his "penance" and believed he could finally be honest about the secret sex and political lives he had kept in different "closets."

The book opened a rare window into a world where candidates made unwritten deals for campaign contributions. Those types of dealings were significant for McGreevey, who had no personal wealth and needed campaign donations.

"Political compromises came easy to me," McGreevey wrote.

Deep into the memoir, McGreevey wrote of his push for the Highlands Act: "I had grossly underestimated the kind of opposition we were facing."

He said secret meetings were held at a Trenton hotel with outsiders in an effort to make compromises that would let the law pass. "We looked at our (development) permit review process to see how nimble we could make it without sacrificing oversight."

Key officials also admitted in an October 2004 report in *The Star-Ledger* that, to secure enough votes for the Highlands Act, concessions were made by moving the boundaries of the preservation zone based on political considerations.

"The fact is that accommodations were made," Morris County Freeholder Jack Schrier said at the time. "The science went a little weird to accommodate political considerations."

The admissions by McGreevey and comments by others were noticed by Bogatch.

"The boundaries were created not based on engineering or science considerations, but on politics," said the developer in a recent interview as he sat at his attorneys' conference table surrounded by schematics and blueprints.

The state is "defending the validity of the statute," said Assistant Attorney General Stefanie Brand. She added the state is not objecting to Bogatch's attorneys deposing under oath the ex-governor or his aides, though a Superior Court judge agreed to limit the questioning so confidential information is not revealed.

Bogatch said he knows what he intends to ask McGreevey.

"My question will be why he allowed pieces from the (preservation) map to be excluded from the (final) map?" the developer said. "And if he did it for a different reason than science, why wasn't my property taken off? Is it because I didn't go to (the governor's mansion in) Princeton? Is it because I didn't donate to his campaign? This was a corrupted law."

David Pringle, campaign director for the New Jersey Environmental Federation, said even one successful legal challenge to the Highlands Act could hurt environmental efforts in North Jersey.

"Any litigation that permits overdevelopment in the Highlands would have major consequences to public health and the environment," said Pringle, whose group criticized the act for not going far enough.

Pringle, however, said he doubts Bogatch has any chance of winning in court.

"Legislation by definition is a political process," he said. "But the legislation had to get passed and there were compromises within the legislation. There were compromises outside the legislation. But (the law) establishes a scientific and legal framework for preservation."

In addition to McGreevey, Bogatch and his attorneys have issued subpoenas to former Environmental Protection Commissioner Bradley Campbell and former policy counselors Eric Shuffler and Curtis Fisher. McGreevey and his former aides declined comment.

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