



State of New Jersey  
DEPARTMENT OF COMMUNITY AFFAIRS  
101 SOUTH BROAD STREET  
PO Box 051  
TRENTON, NJ 08625-0051

CHRIS CHRISTIE  
Governor

KIM GUADAGNO  
Lt. Governor

CHARLES A. RICHMAN  
Commissioner

December 10, 2015

Daniel Toth



RE: Local Government Ethics Law  
Complaint #LFB-13-009  
Notice of Determination

Dear Mr. Toth:

The purpose of this letter is to apprise you of the Local Finance Board's final disposition of the above-referenced complaint.

As you are aware, the Local Government Ethics Law, N.J.S.A. 40A:9-22.1 et seq., provides the Local Finance Board (Board) with the power to initiate, receive, hear and review complaints, and hold hearings with regard to possible violations of the Local Government Ethics Law, where no local ethics board has been established, and determine if a complaint against a local government officer or employee is within its jurisdiction, frivolous, or without a reasonable factual basis, prior to conducting an investigation. Pursuant to N.J.S.A. 40A:9-22.9, you are hereby notified that a complaint was filed against you and dismissed.

The allegations set forth in the complaint may be summarized as follows to include:

- You used your influence as a councilmember to attempt to expedite construction projects for companies from which you received campaign contributions and/or with which you had business relationships;
- Your position at your importing/exporting company created a direct interest in securing the completion of the construction projects, and that interest prejudiced your judgment in the exercise of your official duties as Councilman;
- You violated protocol when communicating with Township employees;
- You threatened the Assistant Business Administrator's job.

The nature of the complaint alleges a possible violation of the following provisions of the Law:

N.J.S.A. 40A:9-22.5(c) No local government officer or employee shall use or attempt to use his official position to secure unwarranted privileges or advantages for himself or others;

N.J.S.A. 40A:9-22.5(d) No local government officer or employee shall act in his official capacity in any matter where he, a member of his immediate Daniel Toth



**family, or a business organization in which he has an interest, has a direct or indirect financial or personal involvement that might reasonably be expected to impair his objectivity or independence of judgment;**

**N.J.S.A. 40A:9-22.5(e) No local government officer or employee shall undertake any employment or service, whether compensated or not, which might reasonably be expected to prejudice his independence of judgment in the exercise of his official duties;**

**N.J.S.A. 40A:9-22.5(f) No local government officer or employee, member of his immediate family, or business organization in which he has an interest, shall solicit or accept any gift, favor, loan, political contribution, service, promise of future employment, or other thing of value based upon an understanding that the gift, favor, loan, contribution, service, promise, or other thing of value was given or offered for the purpose of influencing him, directly or indirectly, in the discharge of his official duties. This provision shall not apply to the solicitation or acceptance of contributions to the campaign of an announced candidate for elective public office, if the local government officer has no knowledge or reason to believe that the campaign contribution, if accepted, was given with the intent to influence the local government officer in the discharge of his official duties;**

**N.J.S.A. 40A:9-22.5(g) No local government officer or employee shall use, or allow to be used, his public office or employment, or any information, not generally available to the members of the public, which he receives or acquires in the course of and by reason of his office or employment, for the purpose of securing financial gain for himself, any member of his immediate family, or any business organization with which he is associated;**

**N.J.S.A. 40A:9-22.5(h) No local government officer or employee or business organization in which he has an interest shall represent any person or party other than the local government in connection with any cause, proceeding, application or other matter pending before any agency in the local government in which he serves.**

**This provision shall not be deemed to prohibit one local government employee from representing another local government employee where the local government agency is the employer and the representation is within the context of official labor union or similar representational responsibilities;**

After a preliminary investigation of the facts and circumstances relevant to this complaint, the Board determined to dismiss the allegation that you violated N.J.S.A. 40A: 9-22.5(c), (d), (e), (f), (g) and (h).

- You used your influence as a councilmember to attempt to expedite construction projects for companies from which you received campaign contributions and/or with which you had business relationships.
  - Councilmembers are permitted to make inquiries on behalf of constituents and may make ask about the status of applications on their behalf. There is no indication that anything of value was exchanged or promised.
- Your position at your importing/exporting company created a direct interest in securing the completion of the construction projects, and that interest prejudiced your judgment in the exercise of your official duties as Councilman;
  - The complaint does not allege that you voted on or took any official action at any meeting that would directly or indirectly financially benefit you or the businesses. The complaint only contends that you made inquiries into the progress of various permits and inspections, as a Councilman, on behalf of those businesses. As an elected official, you are permitted to inquire on behalf of constituents, whether they are individuals or businesses. The opportunity to reach out to Council Members existed for other businesses with ongoing construction. That you had professional relationships with these businesses may have made them more comfortable reaching out to you, and the relationship did not prohibit you from inquiring on their behalf.
- You violated protocol when communicating with Township employees
  - According to the complaint, the Business Administrator requested that you stop contacting departments/employees directly and advised that the proper procedure under Brick Township's Faulkner Act form of government was to communicate through the Mayor or Business Administrator (pursuant to N.J.S.A. 40:69A-37.1). While it would appear reasonable that you would communicate from time to time with Township employees, the Local Finance Board does not have jurisdiction to enforce any alleged violations of the Faulkner Act.
- You threatened the Assistant Business Administrator's job.
  - The complaint alleges that as a result of the Assistant Business Administrator's request to stop contacting staff, you threatened to eliminate the his position through the budget process. There was no direct independent evidence presented to substantiate this claim; however, if the complaint had alleged that the threat was criminal in nature, then it would have been appropriate to file a complaint with law enforcement officials as enforcement of criminal laws are beyond the jurisdiction of the Local Finance Board.

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Your actions, as alleged in the complaint, do not appear to be outright violations of the Local Government Ethics Law. Since the Board did not have any reasonable factual basis to substantiate the claims, such as any official action taken by you, or any other independent documentation, the Board voted not to authorize an investigation into any of the allegations filed against you.

Complaint #LFB 13-009 is now closed.

Pursuant to N.J.S.A. 40A:9-22.9, the local government officer or employee against whom the complaint was filed must be notified of the Board's conclusion regarding a complaint. No action is required on your part. This letter is a notification that a complaint was filed against you and dismissed.

If you have any questions regarding this matter, please do not hesitate to contact Tina Vignali at (609) 292-0479.

Sincerely,



Timothy J. Cunningham, Chair  
Local Finance Board

TJC: tv  
C13-009 - Determination Letter, Accused

Cc: Complainant