

**TOWNSHIP OF HAMILTON  
COUNTY OF MERCER, NEW JERSEY**

**ORDINANCE**

No. **22-023**

1ST READING May 17, 2022  
2ND READING & PUBLIC HEARING June 21, 2022  
WITHDRAWN \_\_\_\_\_ LOST \_\_\_\_\_

DATE TO MAYOR \_\_\_\_\_  
DATE RESUBMITTED TO COUNCIL \_\_\_\_\_  
DATE EFFECTIVE \_\_\_\_\_

APPROVED AS TO FORM AND LEGALITY

ACTUAL CONTENTS CERTIFIED TO BY

\_\_\_\_\_  
TOWNSHIP ATTORNEY

\_\_\_\_\_  
TITLE

**AN ORDINANCE AUTHORIZING THE ACQUISITION OF CERTAIN REAL PROPERTY LOCATED AT 1744 EAST STATE STREET IN THE TOWNSHIP OF HAMILTON, DESIGNATED AS BLOCK 1637, LOT 18 OF THE HAMILTON TOWNSHIP TAX MAP FOR THE PUBLIC PURPOSE OF AFFORDABLE HOUSING AND THE PROTECTION OF PUBLIC HEALTH AND SAFETY**

*Whereas* on June 9, 2015, a six alarm fire heavily damaged a series of attached homes located on East State Street, in the Bromley Section of the Township, rendering them uninhabitable; and

*Whereas* the Township previously obtained ownership of seven (7) properties, commonly known as 1746 through 1758 East State Street, Hamilton, NJ; and

*Whereas* the Township demolished those heavily damaged homes for the protection of Public Health and Safety, and plan to include the properties in its Affordable Housing program; and

*Whereas* once those properties were demolished, the Township's experts were enabled to see that the property located at 1744 East State Street was more heavily damaged than originally believed;

*Whereas* the Township must demolish the property at 1744 East State Street for the protection of Public Health and Safety, and include this property in its Affordable Housing program; and

*Whereas* the New Jersey Supreme Court and the New Jersey Legislature have recognized and mandated in *So. Burl. Co. NAACP v. Mount Laurel*, 92 N.J. 158 (1983) ("Mount Laurel II") and the Fair Housing Act, N.J.S.A. 52:29D-301, et seq. ("FHA") that every municipality in New Jersey has an affirmative obligation to facilitate the provision of low and moderate income housing; and

*Whereas* because these properties will be included in the Township Affordable Housing program, the Township has therefore determined that the acquisition of Block 1637, Lot 18 is in the public interest and will enable the Township to satisfy its Constitutional obligation to provide affordable housing, and will further the goals of the Township as set forth in its Master Plan, (*see, Twp. of Robbinsville v. Mercer MHC, LLC, NO. A-5655-17T3 (App. Div. March 25, 2019) certif. denied, 207 A.3d 757 (N.J. 2019)*); and

*Whereas* the Township is authorized pursuant to N.J.S.A. 40A:12-1 et seq., to acquire properties for the public purposes set forth herein; and

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*Whereas* the Township may acquire Block 1637 Lot 18 either through voluntary, arms-length negotiations or through condemnation pursuant to the Eminent Domain Act, N.J.S.A. 20:3-1, et seq.; and

*Whereas* the Township prefers to acquire Lots 18 of Block 1637 through voluntary negotiations and desires at this time to pursue negotiations with the property owners with a view towards achieving a negotiated agreement that takes into account the reasonable objectives and interests of both parties and that ensures that the properties' owners receive fair and just compensation for the properties; and

*Whereas* passage of the within ordinance is a legal prerequisite to initiating formal negotiations with the respective owners of the two properties; and

*Whereas* the Eminent Domain Act provides procedures for a municipality to engage in formal negotiations and, in the even such negotiations are unsuccessful, to file a condemnation action and to secure a determination as the price to be paid as just compensation in advance of the filing of a declaration of taking;

*Now Therefore, Be It Ordained* by the Township Council of the Township of Hamilton in the County of Mercer, State of New Jersey, as follows:

1. The Township is hereby authorized to initiate proceedings pursuant to the Eminent Domain Act, N.J.S.A. 20:3-1 et seq., to acquire for public use, by voluntary conveyance or by condemnation, a fee simple or lesser titled interest in the land and improvements, if any, located at 1744 East State Street designated as Block 1637, Lot 18 on the Tax Map of the Township of Hamilton and in the land and improvements, if any, located at 1744 East State Street designated as Block 1637, Lot 18 on the Tax Map of the Township of Hamilton, and in connection therewith to do such acts as are required by law to acquire the referenced properties.
2. The Township, through its appropriate staff, employees and officials is hereby authorized and directed to take all such steps as may be advisable or necessary pursuant to N.J.S.A. 40A:12-1, et seq. and N.J.S.A. 20:3-1, et seq. to acquire the above-referenced properties, including but not limited to, obtaining surveys, title searches, and appraisals, and the making of an offer of compensation to the owners of the subject properties in an amount not less than the amount of such appraisals as may be approved by Township Council by resolution.
3. The Mayor, Business Administrator, Township Clerk and the Director of Law, and other staff and professionals, are hereby authorized and directed to execute and file any and all such actions and documents and undertake any and all such further actions as may be necessary to accomplish the purposes hereof.
4. The determination to complete the acquisitions upon acceptance of the respective offers by the respective owners of the properties or to file a declaration of taking of one or both properties shall abide the enactment of a further action authorizing same and providing funding for the acquisition.

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\_\_\_\_\_  
PRESIDENT

\_\_\_\_\_  
MUNICIPAL CLERK

**RECORD OF VOTE**

First Reading							Second Reading						
COUNCIL	AYE	NAY	NV	AB	ORD	SEC	COUNCIL	AYE	NAY	NV	AB	ORD	SEC
ANTHONY P. CARABELLI, JR.	✓						ANTHONY P. CARABELLI, JR.						
PASQUALE "PAT" PAPERIO, JR.	✓						PASQUALE "PAT" PAPERIO, JR.						
RICHARD L. TIGHE, JR.	✓				✓		RICHARD L. TIGHE, JR.						
Charles F. Whalen	✓					✓	CHARLES F. WHALEN						
Nancy Phillips	✓						NANCY PHILLIPS						

X - Indicates Vote    A.B. - Absent    N.V. - Not Voting    ORD. - Moved    SEC. - Seconded

REJECTED \_\_\_\_\_

\_\_\_\_\_  
JEFFREY S. MARTIN, MAYOR

\_\_\_\_\_  
DATE

APPROVED \_\_\_\_\_

RECONSIDERED BY COUNCIL \_\_\_\_\_

\_\_\_\_\_  
OVERRIDE VOTE

AYE \_\_\_\_\_

NAY \_\_\_\_\_