

Who Can Be a Redeveloper of Property in New Jersey?

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One of the questions that I am frequently asked is, “Who can develop property in a redevelopment area?”

As discussed below, redevelopment can be done by anyone, subject to restrictions discussed below, and is not necessarily restricted to just large scale developers.

A redeveloper is defined by New Jersey’s Local Housing and Redevelopment Law (the “LHRL”) as “... any person, firm, corporation, or public body that shall enter into or propose to enter into a contract with a municipality or other redevelopment entity for the redevelopment or rehabilitation of an area in need of redevelopment...”.

Thus, for a redeveloper to make use of the LHRL, a municipality must have first declared a property or properties as an area in need of redevelopment.

N.J.S.A. 40A:12A-3 of the LHRL defines a redeveloper as anyone who makes contact with or is contacted by a municipality to redevelop land. A municipality has extremely broad authority to designate a private redeveloper after the enactment of a redevelopment plan.

Significantly, designating a redeveloper does not require any type of proposals/requests from the redeveloper. However, a municipality cannot designate a person or entity a redeveloper prior to its enactment of a redevelopment plan.

Moreover, there is no formal procedure to be designated a redeveloper. Typically, it is done via a resolution by the governing body of the municipality.

After naming the redeveloper, the next step is that the redeveloper and municipality enter into a written agreement setting forth the various parties' rights and obligations. While not discussed here, there are several mandatory requirements that must be contained in a redevelopment agreement between the municipality and redeveloper for that agreement to be enforceable and valid. However, the redevelopment agreement may contain other terms that are integral to the proposed redevelopment project.

The next question often asked is, "Can someone develop property in a redevelopment area, even when there is a redevelopment plan, without being deemed a redeveloper?"

The answer is yes. A property owner who owns real estate in a redevelopment area may still develop its property, but that person's rights may be limited by a restriction contained in a redevelopment plan or redevelopment agreement. However, that person is not technically a redeveloper. Such development is often referred to as a little "r" redevelopment because the developer is acting outside of the scope of a redevelopment agreement.

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