

TOWNSHIP OF UPPER

CAPE MAY COUNTY

ORDINANCE

ORDINANCE NO. 007-2013

AN ORDINANCE AUTHORIZING THE TOWNSHIP OF UPPER TO ENTER INTO A LEASE AGREEMENT WITH THE HISTORICAL PRESERVATION SOCIETY OF UPPER TOWNSHIP, INC., A NON-PROFIT CORPORATION, WITH RESPECT TO LAND AND PREMISES KNOWN AS THE "FRIENDSHIP SCHOOL", BLOCK 587, LOT 1 ON THE OFFICIAL TAX MAP OF THE TOWNSHIP OF UPPER, FOR A NOMINAL CONSIDERATION.

BE IT ORDAINED by the Township Committee, the Governing Body of the Township of Upper, in the County of Cape May and State of New Jersey, as follows:

SECTION 1: FACTUAL FINDINGS AND DETERMINATIONS: The Township Committee hereby expressly finds and determines the following:

- (A) Pursuant to N.J.S.A. 40A:12-14, a municipality is authorized to lease any real property, capital improvement or personal property not needed for public use and which is not otherwise dedicated or restricted pursuant to law.
- (B) N.J.S.A. 40A:12-14(c) further provides and authorizes a lease to a non-profit corporation for a public purpose, provided that such Lease shall be authorized by Ordinance and further authorizes such Lease for a nominal consideration. Said Statute further requires and mandates that the non-profit corporation file annual reports with the Governing Body as more particularly described and required in Section 4 hereof.
- (C) N.J.S.A. 40A:12-15 sets forth the purposes for which Leases for a public purpose may be made and provides a maximum term for a leasehold and expressly authorizes such Lease for any civic or historic programs or activities by duly incorporated historical societies (N.J.S.A. 40A:12-15(g)), as well as for any activity for the promotion of the health, safety, morals and general welfare of the community of any non-profit corporation or association

(N.J.S.A. 40A:12-15(i)).

- (D) It has been represented to the Township Committee that the Historical Preservation Society of Upper Township, Inc. (“Society”) is a duly incorporated non-profit corporation organized and existing under the laws of the State of New Jersey and in good standing and the Township Committee accepts and relies upon those representations made by or on behalf of the Society and the Township Committee further finds that the Society meets the requirements of N.J.S.A. 40A:12-15(g) and (i).
- (E) The activities of the Society will promote the health, safety, morals and general welfare of the community through educational programs conducted which will foster a knowledge, awareness and appreciation of the Township’s unique historical background.

SECTION 2: The Township of Upper is hereby authorized to enter into a Lease Agreement with the Society, for the lease of the property known as the “Friendship School”, designated as Block 587, Lot 1 as shown on the Official Tax Map of the Township of Upper. Said Lease shall be for a term of five (5) years, commencing June 1, 2013. Said Lease may thereafter be renewed for a successive term of five (5) years. Said Lease may thereafter be renewed for a successive term or terms as permitted by law. The consideration shall be nominal and shall be stated at the sum of One Dollar (\$1.00) per year for the term of said Lease. Said Lease shall be prepared or approved by the Municipal Attorney for the Township of Upper and ultimate final approval of said Lease shall be vested in the Township Committee, as the Governing Body of the Township of Upper.

SECTION 3: CONDITIONS AFFECTING LEASE: The Lease authorized in Section 2 hereof shall be expressly subject to the following terms, reservations and restrictions:

- (A) The property described herein shall be used by the Society subject to the terms and conditions of an Agreement to be negotiated between the Township of Upper and the Society, which defines the rights, duties and responsibilities of the Township and the Society with respect to the maintenance and use of the property described in this Ordinance.
- (B) In the event that the Society should, in the opinion of the Township Governing Body, cease to exist or become inactive, then the right is reserved unto the Township of Upper, through its Governing Body, to terminate the

Lease and to make the property described herein available to a successor entity or group to be used for the same or similar purpose or for any other purpose permitted by law.

SECTION 4: RESPONSIBILITIES OF LESSEE: In compliance with N.J.S.A. 40:12-14, as the same may, from time to time, be amended or supplemented, it shall be the responsibility of the Tenant, the Historical Preservation Society of Upper Township, Inc., as the holder of a Lease for a public purpose, to submit annually a report to the Township Committee, in writing, setting forth the use to which the leasehold was put during the preceding year; the activities of the Lessee undertaken in furtherance of the public purpose for which the leasehold was granted; the approximate value or cost, if any, of such activities in furtherance of such purpose; and an affirmation of the continued tax-exempt status of the non-profit corporation pursuant to both State and Federal law. Failure on the part of the Tenant to comply with the provisions of this law or any similar law enacted by the State of New Jersey during the term of this Lease shall be cause for the termination of the Lease by action of the Township Governing Body.

SECTION 5: AUTHORITY OF TOWNSHIP OFFICIALS: All Township officers, officials and employees are hereby authorized to take all action necessary or required in order to carry out the intent and purpose of this Ordinance. Without in any way intending to limit the generality of the foregoing, the Mayor and the Township Clerk are expressly authorized, empowered and directed to sign the Lease Agreement on behalf of the Township of Upper as Lessor and the Township Clerk is further authorized, directed and empowered to affix the Township seal to said Lease.

SECTION 6: REPEALER: All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency only.

SECTION 7: EFFECTIVE DATE: This Ordinance shall take effect immediately upon final adoption and publication as required by law.


CURTIS T. CORSON, JR., Deputy Mayor


Barbara L. Young, Township Clerk

NOTICE IS HEREBY GIVEN THAT THE FOREGOING ORDINANCE WAS INTRODUCED FOR FIRST READING AT A MEETING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HELD ON THE 8th DAY OF APRIL, 2013 AND WILL BE TAKEN UP FOR CONSIDERATION AS TO FINAL ADOPTION AT A PUBLIC HEARING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER TO BE HELD ON THE 13th DAY OF MAY, 2013 AT 7:30 P.M. AT THE TOWNSHIP HALL, TUCKAHOE, NEW JERSEY.

BY ORDER OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER.

BARBARA L. YOUNG, TOWNSHIP CLERK
TOWNSHIP OF UPPER

Legislative History:

Introduced: April 8, 2013

Publication: April 15, 2013

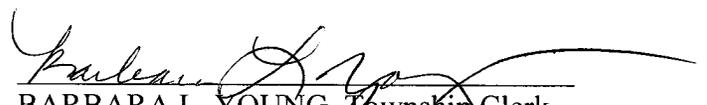
Newspaper(s): The Press of Atlantic City

Second Reading & Public Hearing: May 13, 2013

Final Adoption: May 13, 2013

Final Publication Date: May 16, 2013

I certify that the foregoing Ordinance was finally adopted by the Township Committee of the Township of Upper on May 13, 2013 and notice of adoption was thereafter published pursuant to law in The Press of Atlantic City on May 16, 2013.


BARBARA L. YOUNG, Township Clerk