

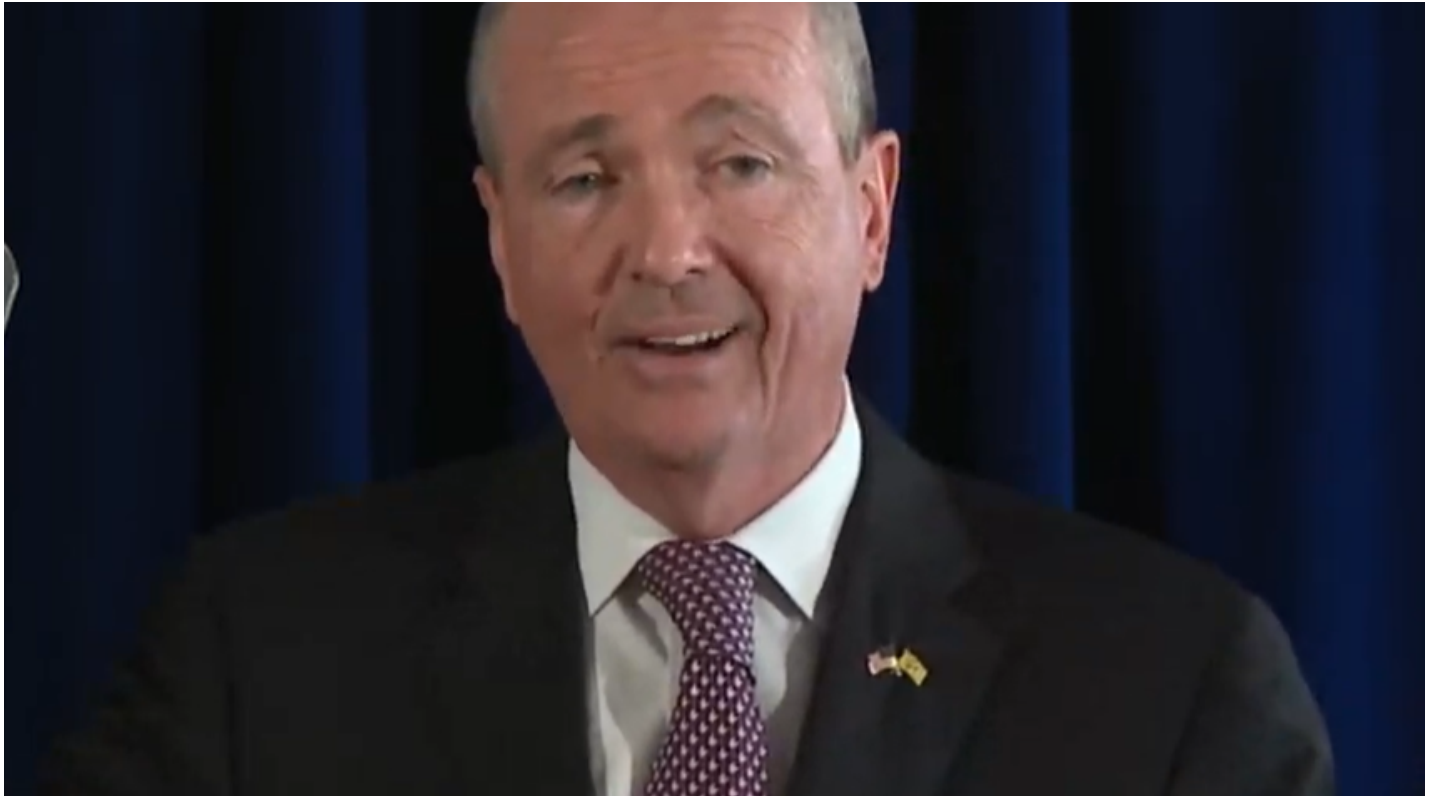
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COLUMNIST

For Gov. Phil Murphy, there is no Incentive to Negotiate – He’s Winning

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In appealing the dismissal of a lawsuit to shut down further investigation of tax incentives awarded by the Economic Development Authority, attorneys for South Jersey political leader George Norcross wrote that there is “no potential to settle the matter or simplify the issues.”

The appeal, while risky, indicates Norcross is prepared to fight to the bitter end and that pursuing his case in the courts is the sole remaining option at his disposal.

For Gov. Phil Murphy, there is no incentive to negotiate — he’s winning.

Norcross has claimed the task force established by Murphy to investigate allegations of political influence and a failure to adhere to rules and regulations in granting the tax breaks was not legally constituted and unfairly targeted him and individuals associated with him as part of a political retribution scheme concocted by the Murphy Administration.

His arguments were dismissed decisively by a Superior Court Judge who found no merit in the contention that Norcross was the subject of a political plot and that the governor was well within his constitutional authority to order an investigation of the EDA.

Ever since the task force findings that the EDA approved hundreds of millions of dollars in tax incentives despite incomplete applications and less than truthful responses, Norcross has been on the defensive, fighting a rear guard action to refute allegations of favoritism shown to projects in Camden in which he or his allies held an interest.

He initially attacked the governor in unprecedented personal terms, accused him of demeaning the City of Camden and its residents, and mobilized local and state officials to defend the incentive program and praise its effect in bringing economic development and growth to a community sorely in need of it.

Murphy has wisely refrained from engaging in invective-swapping with Norcross, deferring to the task force, allowing its findings to speak for themselves while remaining aloof from the highly charged political environment and refusing to be drawn into a public confrontation with Norcross.

The appeal of the Superior Court ruling comes with a risk. Should the three-judge appellate panel uphold the lower court ruling, it would be another significant defeat for Norcross while reinforcing the governor's executive powers.

A unanimous ruling at the Appellate level, while making it more considerably more difficult to bring a further appeal to the Supreme Court, does not block it altogether.

Under judicial procedure, a 2-1 decision automatically opens the path for a Supreme Court appeal while a 3-0 ruling gives the high court the option of accepting or declining the case.

Murphy continues to hold the upper hand and, no matter the outcome of the appeal process, will continue to do so. Even should Norcross' appeal be granted and the lower court ruling reversed, the months of controversy has already embedded in the public mind a belief that the EDA actions were somehow tainted and Norcross was the beneficiary.

The governor is aided, also, by the allegations that the improper conduct at the EDA occurred under the administration of his immediate predecessor, former Gov. Chris Christie who enjoyed a close working and political relationship with Norcross.

Murphy has made his case that it was his Administration that uncovered the questionable decisions reached by the EDA and acted swiftly to deal with them.

He created the task force and gave it the authority to investigate the authority's actions, no matter who was involved. That Norcross was swept up in it came as no surprise in light of the number of projects and the considerable sums of money involved in Camden.

The ensuing political uproar has split the Democratic Party — perhaps irrevocably — and has posed a serious threat to Norcross' influence in his South Jersey base and could impede any effort to extend his reach beyond it.

While there existed some hope that the issue could be resolved and further controversy avoided, Norcross' appeal has likely extinguished it.

The appeal has taken on a matter of personal pride and principle for Norcross, one that seeks some level of vindication and validation of his argument that he has been badly damaged personally and professionally, that his integrity and reputation have been sullied by a governor bent on political revenge.

He views himself as a highly motivated individual whose only interest is in revitalizing his native city and improving the quality of life for its citizens.

If corners were cut and if the EDA played fast and loose with its regulations, it was in a noble cause. It is an ends justifies the means argument, to be sure, and suggests that the infractions uncovered by the task force were minimal, honest mistakes which fall short of any illegality.

It is a rationale which comes close to the advice often cited in the legal profession: "If the law is on your side, pound the law. If the facts are on your side, pound the facts. If neither is on your side, pound the table."

At the moment, Team Norcross is in table pounding mode, hoping that the judicial process will find it more persuasive.

It is, though, the political process and how it plays out that is of greater impact to both the governor and Norcross.

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