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Pomona, Tartikov developer clash before federal judge

BY AKIKO MATSUDA • AMATSUDA@LOHUD.COM • MAY 21, 2009

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Attorneys representing Pomona village and a developer of a planned rabbinical college had their first face-off yesterday afternoon before a U.S. District Court judge.

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Congregation Rabbinical College of Tartikov sued the village in July 2007, arguing that Pomona's land-use regulation and conduct prohibited it from building and operating the college and housing for students on a 130-acre site off routes 202 and 306.

The village then filed a motion to dismiss the case with Judge Kenneth Karas in White Plains, who has been handling the lawsuit.

The hearing was for Karas to ask both sides questions to render his opinion of whether to continue the lawsuit. Karas apologized for the delay of the hearing, which was rescheduled a couple times.

Marci A. Hamilton, attorney for Pomona and an expert on the federal Religious Land Use and Institutionalized Persons Act, known as RLUIPA, presented the village's case first, arguing that Pomona has never received an application from the developer on the project, so the village officials and residents didn't know what Tartikov really wanted to build on the site.

The developer has said that it wanted to build a rabbinical college and dormitories for at least 250 students and their families.

Karas jumped into the center of Tartikov's complaint, the village's alleged discriminatory attitude.

"Is this all about real estate?" Karas said.

Karas then read a quote from former village Mayor Herbert Marshall, which was made long before the lawsuit.

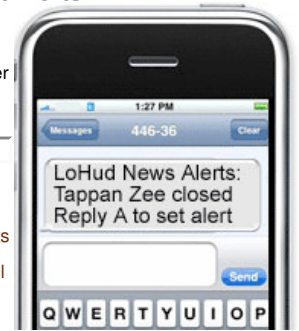
The quote, which was part of Tartikov's complaint, was about Marshall's speaking before residents that he would be unable to discuss the developer's plan because his attorney stopped him from doing so.

The judge also asked about the village's accreditation requirement. The village ordinance does not allow nonaccredited colleges and educational facilities to build dorms.

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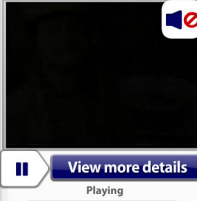
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