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Thursday, March 12, 2009

Religious land use discrimination case moves forward

Judge denies Walkersville's motions to dismiss

by Jeremy Hauck | Staff Writer

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A federal judge last week ruled that he will allow a Walkersville landowner's lawsuit against the town to move forward to the discovery phase, with an eye toward a two-week civil jury trial in November.

Judge Richard D. Bennett of the U.S. District Court in Baltimore also ruled that he will review the Walkersville Zoning Board of Appeals' February 2008 decision that denied a Muslim group permission to use a Walkersville farm for religious purposes.

That means the appeals board's decision could be overturned, according to Roman P. Storzer, of Washington, D.C. firm Storzer and Greene, an attorney representing landowner David W. Moxley.

"We are very encouraged by the decision and hope to have our day in court," Storzer said Tuesday. "More or less all of the defendants remain subject to the claims brought against them."

Moxley, owner of a 224-acre farm in Walkersville, is seeking to reverse the appeals board's decision, which blocked him from selling his farm to a Muslim group for \$6.5 million.

Bennett dismissed several parts of Moxley's complaint, but the majority of Moxley's case will proceed.

Moxley's complaint "pleads ample facts to support [his] contention that the private defendants joined with the government defendants to block the sale of the Moxley farm to the [Muslims]," Bennett writes in a part of his 32-page ruling.

Moxley in July 2008 sued the Town of Walkersville, Walkersville Burgess Ralph W. Whitmore, Walkersville Commissioners Russell Winch, Donald W. Schildt, Chad W. Weddle Roger A. Eyler Jr., the Walkersville Zoning Board of Appeals, and appeals board members Dan Thomas, Vaughn Zimmerman and Harold Roderuck.

He alleges that the officials conspired with each other and the group Citizens for Walkersville to deny a Muslim group permission to use his farm for religious retreats.

Moxley claims the town was motivated by anti-Muslim bias and violated the First Amendment and other federal and state laws in its decision, including the Religious Land Use and Institutionalized Persons Act, which Congress passed in 2000 to combat discrimination in zoning cases.

The town is denying all of Moxley's claims.

Citizens for Walkersville is a grassroots group that organized opposition to the Muslim group's plans, and dominated public testimony during appeals board hearings in January and February 2008. It was led by Ed Marino of Walkersville, who served as president, and Steven R. Berryman of Frederick, who served as spokesman.

The attorney for Citizens of Walkersville, Robert R. McGill, motioned for a universal dismissal of the case. Bennett denied the motion.



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The attorney representing Walkersville and Walkersville officials, Daniel Karp, of the Baltimore firm Karpinski, Colaresi and Karp, could not be reached for comment on Tuesday.

The Silver Spring-based Ahmadiyya Muslim Community wanted to use Moxley's farm for an annual three-day summer religious retreat, called Jalsa Salana, which attracts about 4,500 people and may eventually draw 10,000. The Ahmadis wanted to build a 42,000-square-foot building for the retreats. About 85 local Ahmadis would also have used the building weekly as a mosque.

On Feb. 7, 2008, the three-member Walkersville Zoning Board of Appeals voted unanimously to deny the Ahmadis' request for a special exception to use Moxley's farm for religious purposes. The appeals board faulted the Muslim group for not meeting most of the 14 zoning factors the board took into account for the special exception request. The board rejected much of the evidence submitted by the group in support of its request.

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