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Amish farmer may get national legal help in permit case

by Megan VerHelst Jackson County Chronicle

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The series of cases between towns in Jackson County and local Amish farmers regarding municipal building code violations has drawn the attention of a national group created to preserve religious freedoms for groups such as the Amish.

The National Committee for Amish Religious Freedom, represented by attorney Robert Greene of New York, and local attorney Ken Artis, has filed a legal brief with Jackson County court requesting to intervene in the case of Samuel F. Stolzhus, an Amish farmer who lives in the town of Albion.

Stolzhus built a home in Albion and under Wisconsin law he must obtain a building permit in order to construct it. When he did not, Stolzhus was served a court summons on November 3, 2007.

The Stolzhus case caught the attention of the committee, which was founded in 1967 at the University of Chicago for the purpose of preserving the religious liberty of the Old Order Amish and related groups.

According to the brief, the Committee will attempt to intervene in the case to protect the right of religious freedom for the Amish under both the Wisconsin and the United States Constitution. Greene, the attorney representing the Committee, said freedom of religion is the first thing protected by the First Amendment.

"Values are so important they are in the Constitution and it says the government cannot interfere," Greene said. "This is a value of the very highest order."

Stolzhus, if found guilty, faces similar consequences to the cases before him. Failure to comply with the code could result in fines ranging from \$25 to \$1,000 per day of non-compliance. Stolzhus might also face a fine for his driveway from \$10 to \$500 per day.

Previous cases in the county have found other Amish guilty of building code violations, leaving them with thousands of dollars in fines for each day their home was in non-compliance.

Amish farmer Daniel Bornrtreger, who began adding on to his house in Franklin in 2006, was fined \$10,600 in March for failure to comply with the Uniform Dwelling Code. The town contended Bornrtreger was actually building a new home, which required a building permit and the need to comply with the code. Samuel S. Stolzhus, according to Wisconsin court records, was sentenced to pay the town of Albion \$9,450 after he failed to provide a permit for both his house and driveway.

Religious beliefs

Stolzhus, along with other Amish, have not and will not have an attorney represent them in court for these violations. This fact is due to their religious beliefs and like prior cases, the outcome of the Stolzhus case will inevitably be against him.

Greene said the Amish will not defend themselves because of a long-standing religious conviction not to oppose injustice done to them. "There are varieties among the Amish," Greene said, "but they take this literally." He also said they will not sign the application for a building permit because it is against their religion to lie.

A line in the current application for a building permit states "all work shall be done in accordance with all applicable county ordinances as well as applicable laws, codes and ordinances of the local governing body and the laws and regulations of the state of Wisconsin." Greene said the Amish won't sign it because they don't know if they can do what the application asks; therefore, they cannot lie.

While the Amish will not hire someone to defend them in court, they will accept the assistance of those who wish to help them, Artis, of Artis Law Office in Black River Falls, said.

When the National Committee for Amish Religious Freedom heard about the Stolzhus case and others in the county, Greene contacted Artis, who said he got involved in this case 'almost by accident.' He was sitting in on the arguments of a similar case at the Jackson County Courthouse when he was approached by an Amish farmer who asked why he was there.

"I explained I was just listening and that it was interesting," Artis said. "I have always enjoyed constitutional law and thought the (Stolzhus) case was an interesting case."

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Artis filed the brief to intervene on June 23. A status conference to discuss the case will be held Friday.

Yoder case

The Committee has intervened in other Wisconsin cases to provide dissent for the Amish, including the case of Wisconsin vs. Yoder (1972), a case that went all the way to the Supreme Court.

Amish citizens were convicted of violating the Wisconsin Compulsory School Attendance Law. On appeal, the decision was reversed because there was not a compelling interest to justify the burden it placed on the Amish free exercise of their religion.

If the Committee is allowed to intervene, Greene said they will start a process of discovery and will look at many different aspects of the case, including if there is discriminatory enforcement of the building code within the town and to see how the code is enforced against other people. "If the town wanted to be reasonable," Green said, "it would try to work out an accommodation that would not offend the religious convictions of the Amish."

The Committee will also ask there be exceptions for the Amish pertaining to municipal building codes in Stolfus' case, as well as future cases. "The building code is not, in fact, applied across the board the same way to everyone," Greene said. "There are particular kinds of exceptions."

Exemptions in municipal building codes are allowed if the government cannot prove a compelling interest in the case. Such exemptions have been made for building such as one-room schoolhouses and bed and breakfasts, the brief states.

"If a bed and breakfast is important enough to get an exemption, constitutional values must be given the same exemption," Greene said.

Town response

Paul Millis, a local attorney representing the town of Albion in the Stolfus case, said the attempt to intervene by the Committee is delaying this case. He said it was set for a trial a month ago and each day that goes by is a separate violation for Stolfus. The town of Albion filed its reply brief against the intervention of the Committee on July 10.

"The big issue is a non-compliant residence in the town of Albion," Millis said. "It's a safety issue."

Millis said regardless if the Committee is allowed to intervene, it will not change the facts of the case, but it could have an effect on future cases in Jackson County. He said cases will have to be dealt with individually to determine whether the Amish will be exempt from building code restrictions.

"I think the most important part is the town of Albion and the code does not dictate that the Amish must build their houses a certain way," Millis said. "They can continue to build as they have in the past; they just have to show that it's structurally sound."

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compromise

wrote on Jul 16, 2008 5:27 PM:

" Instead of going forward and prosecuting one by one every Amish resident something should be done to find a middle ground that everyone can live with. In my opinion, the Amish that live here are an asset to the community. They own property, pay taxes, yet consume very few of the things those taxes pay for. They work hard at their maintaining their belief system and lifestyle in a world that they don't believe in. Changes must be made to the system because the current laws are too rigid and enforcing them is costing more than they are worth. "

Why are the Amish

wrote on Jul 16, 2008 2:37 PM:

" Why are they seen in Wal-mart and Kwik Trip? I thought they didn't believe in the conveniences in the real world???? So, for them to say our religion doesn't believe in not telling the truth...they are not faithful to their belief if they are in Wal-mart and Kwik Trip right? Weird... "

Hezakya

wrote on Jul 16, 2008 2:36 PM:

" It would be great if this worked out in the amish's favor! That would mean I wouldn't have to get any of these BS permits either; being that I'm a christian and try to follow our commandment of "Thou shalt not lie". Even if it doesn't work, I love seeing any of these over controlling laws challenged by interpretation of the constitution. It just proves how communist our country has gotten by passing so much legislation just to protect us from ourselves! You MUST wear your seatbelt in your own vehicle; Even if u want the restaraunt that YOU own to allow smoking they make it illegal; It just goes on and on. The problem is WE are the real idiots, We elected all the eggheads that think this is "progress" POWER TO THE AMISH!! (just not electrical) "

Why Bother

wrote on Jul 16, 2008 2:22 PM:

" Why does our government insist on always putting their nose in where it doesn't belong? The Amish have been doing "their thing" since the beginning of time. You say you want to be sure their homes are "safe", but what about the cheap modular homes we keep throwing up everywhere. I personally would feel more safe in an amish built home than I would a "cardboard puzzle box" Maybe we should take lessons from the

Amish instead of fining them insane amounts of money, which, by the way, where does this money go? "

irritated

wrote on Jul 16, 2008 12:26 PM:

" Why don't we just let them alone. They pay for their land, so they should be allowed to do what they want to it. Who do the fines go to anyways? I find the fines they are slapping on the Amish insane. Why? Because they don't have one of the buddies of the legal system helping them? Not everything needs to be the concern of the Government. Isn't there more important issues out there to make a big deal out of? "

Its so easy

wrote on Jul 16, 2008 11:25 AM:

" It's easy isn't it to pick on someone you know isn't going to defend themselves? Easier still to pick at their financial resources because you have tapped out everyone elses? I just hope these Bush-style gestapoites don't feel the need to come in and inspect my house for violations because I have a cross hung over my doorway. After all, at the time I built my house you only needed one permit, not the three or four you need now. "

Truth

wrote on Jul 16, 2008 11:22 AM:

" Do you realize that some of the amish can drive cars as long as it is for business purposes?? They can use modern farm machinery as long as it is for someone else.
No one argues against the safety signs when they come over a hill at night, and almost smash into the back of an amish buggy.
People are always arguing that we should always treat everyone the same, until they want to be different.
So NO MORE
-safety signs on farm machinery
-paying taxes
-penalties for breaking the law
-buying a license to hunt and fish
-issues against molestation

That's the way that those people want to live, too. "

Freedom lives

wrote on Jul 16, 2008 11:20 AM:

" Why are these towns making such a big deal out of a matter that can be handled much differently? Logically, one could have drilled through to determine the root cause. If document wording is an issue then work with the Amish to get it resolved? It's sad that we as a society have no empathy or don't try to understand others situations. This is an example of trying to put a round peg into a square hole. Unbelievable. It would be nice if the individuals involved were a catalyst for positive change that helped all parties. "

At some point..

wrote on Jul 16, 2008 8:39 AM:

" The citizens of the townships involved are going to realize that they could have just let the Amish be, like most townships around the state chose to do, and that they are now faced with spending thousands, perhaps tens of thousands, in legal fees, basically because of one guy who could not let it go. "

The MOM

wrote on Jul 16, 2008 7:34 AM:

" To: WITHHELD -
My goodness, whatever causes you to be so bitter and negative. It sounds like you take pleasure in the misfortune of others.

Since you seem to know all the answers, perhaps you should check your spelling/grammar usage before sending your comments to the world! As you have used "damn" which is a swear word, instead of "dam", a physical object, and "tourist" is down. Do you mean "tourISM" is down?

You are just disgusting..... "

let them be

wrote on Jul 16, 2008 6:13 AM:

" Let them be the people they were ment to be. I could see it as a big issue if the roofs were falling down on their heads and what not. I am sure they know what they are doing when they build a house and that they to like you as well as myself would do everything in our power to keep their family safe. "

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