

Holowka allows MLPA to join gravel suit

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LAPEER — And then there were four.

Following a motion hearing Monday morning before Chief Circuit Court Judge Nick Holowka, there are now four parties involved in lawsuits regarding a proposal to mine gravel from the D-bar-A Boy Scout Ranch in Metamora Township.

Despite objections from attorneys representing

American Aggregates of Michigan (AAOM) and Ajax Paving, the Metamora Land Preservation Alliance (MLPA) was allowed to intervene and be a counter defendant with Metamora Township that filed a suit challenging the constitutionality of a Michigan gravel statute that the gravel companies claim allows them to mine sand and gravel from an approximate 500-acre parcel on the D-bar-A Ranch.

AAOM filed a countersuit against the township claiming the municipality had no

authority to challenge a state law or prevent the company from collecting damages for lost revenue it could have made had it been allowed to proceed with a gravel mine application filed in November 2015.

Judge Holowka, citing state case law, disagreed and ruled in favor of Metamora Township.

AAOM and Ajax Paving on Monday sought to block the MLPA from joining the Metamora Township lawsuit, claiming MLPA engaged in

“wrongful conduct” because the 501(c)(3) non-profit corporation improperly marked its status on tax returns for a period of eight years.

AAOM unsuccessfully argued that if the court was to allow MLPA to join the township lawsuit knowing there were indiscretions in its tax reporting that it would be aiding the organization on what could be illegalities.

Judge Holowka was having no part of the AAOM assertion and chastised AAOM and Ajax legal counsel for their tact to

discredit the MLPA from joining the lawsuit.

“If they are so concerned about the tax issue why haven’t the aggregates summoned the IRS?” asked Judge Holowka. He likened the tactic to challenge MLPA’s bid to join the lawsuit because of its tax-filing mistake that it acknowledged and agreed to fix as a “smoke screen” on the part of the aggregate companies.

Judge Holowka continued,

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“This court will not allow further gamesmanship to continue...” and blasted the attorneys for pursuit of their assertion. “There is no investigation into these challenges... there are no criminal investigations and there are no sanctions in store... The aggregates have not proven anything.”

At issue in what has become a protracted legal battle, AAOM and Ajax Paving want to mine sand and gravel from a portion of the D-bar-A property. Township officials and residents, including some who support the MLPA, are concerned new large-scale gravel mining in the township will ruin the charm and rural nature the horse country community is best known for.

AAOM seeks the ability to sign a 30-year lease with the Boy Scouts that could put up to 200 gravel haulers per day on Dryden Road through the heart of the historic village

of Metamora. The trucks will also travel through the village of Dryden on their way to Van Dyke and points south.

MLPA attorney Christopher Bzdok argued Monday that the organization has a right to join the Metamora Township lawsuit because its interests align with the township. MLPA, which is comprised of home, landowners and businesses in the greater Metamora area, was organized to preserve, protect rural landscapes and natural resources in the community.

MLPA has been active since 2006 when another gravel mine application was sought. The players and circumstances are similar to the current battle.

Two decades ago Ajax Paving and the Detroit Area Council Boy Scouts of America sued Metamora Township after it denied them a request to mine 60-plus acres at D-bar-A Ranch. After 10 years of litigation and many thousands of dollars in legal costs, the Federal District Court held that Ajax’s and the Scouts’ due

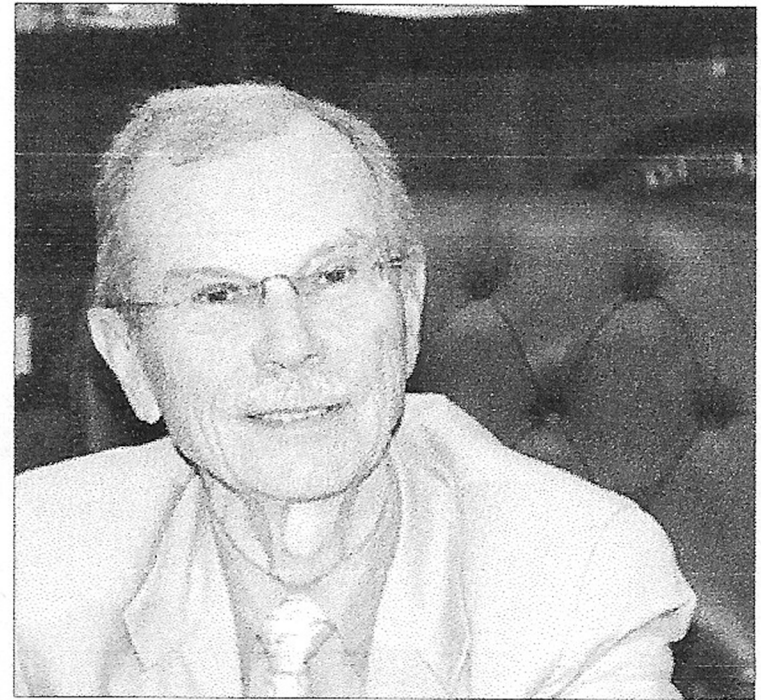
process rights had not been violated. The Scouts at the time agreed through a final settlement agreement, approved by the court, not to mine the D-bar-A Scout Ranch.

Per state law Judge Holowka on Monday ordered the attorneys representing both sides of the current legal fight between Metamora Township and AAOM and Ajax to contact the state Attorney General’s office to alert them that there is challenge to a state law (gravel statute).

“What they do, if anything, is their business but the Attorney General’s Office needs to be informed,” said Judge Holowka.

Now that the challenge has been resolved as to who will be allowed to participate in the suit and countersuit, the case will proceed though no future court dates were assigned.

The case, no matter what Judge Holowka ultimately rules, will likely be appealed owing to the high stakes involved.



Circuit Court Judge Nick Holowka on Monday allowed the Metamora Land Preservation Alliance to intervene and join the Metamora Township lawsuit against American Aggregates of Michigan and Ajax Paving that seek to mine sand and gravel from a portion of the D-bar-A Boy Scout Ranch.