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Judge Holowka orders group that seeks to join township gravel suit to answer legal allegations

BY JEFF HOGAN

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LAPEER — The Metamora Land Preservation Alliance (MLPA) has some explaining to do.

Legal counsel for the organization on Monday sought to intervene and support the Metamora Township lawsuit against American Aggregates of Michigan (AAOM) that wants to mine sand and gravel from property at the D-bar-A Boy Scout Ranch. Citing a three-inch thick file of objections made by AAOM counsel, 40th Circuit Court Judge Nick Holowka instructed MLPA attorney Christopher Bzdok to answer in writing every point of contention cited by AAOM before he can entertain the motion by MLPA to join the township suit.

The MLPA was founded in 2005 when a subsidiary of AAOM (Liberty Sand & Gravel) and the Boy Scouts of America were before the Metamora Township Board who sought to change zoning of the camp from recreational to agricultural. At the time, Liberty Sand and the Boy Scouts wanted to mine gravel from a 283-acre parcel on the D-bar-A

property. The MLPA distributed a petition against that bid that received 1,200 signatures.

Judge Holowka said in reference to the "plethora" of information provided by AAOM that alleges the MLPA engaged in a decade-long tax fraud and that its actions subject it to serious civil and criminal penalties under Michigan and federal law, he wanted all bases covered.

Bzdok told Judge Holowka he thought he could have a written response to the allegations against the MLPA within a couple of weeks.

Bzdok told *The County Press*, "AAOM has made some pretty extraordinary accusations, however as usual they are poorly informed." He was prepared to answer, in detail, all of AAOM's contentions on Monday though Judge Holowka wanted a hardcopy response. "We are very comfortable providing the information that way. The judge is giving us the opportunity to answer these questions and we're prepared to do so on this unwarranted attack on a citizen group."

The MLPA seeks to defend the environment and the community and challenge the counter lawsuit filed by AAOM after Metamora Township sued the gravel company. The MLPA seeks to intervene as a counter defendant on the AAOM/ Scouts counterclaim to protect the interests of its members in the Metamora area related to the mining project and related to the local zoning process that AAOM seeks to overturn.

Metamora Township recently approved amendments to its zoning ordinance to make it more difficult for gravel mine applicants to win approval, citing the irreparable harm and "very serious consequences" additional gravel mining could have on the greater Metamora area.

Among the MLPA interests in joining the Metamora Township lawsuit posed by the proposed mining project are: significant, chronic noise levels at homes adjacent to the mining site; heavy truck traffic spreading dirt and dust while causing the floors to shake at the historic White Horse Inn and other buildings in the village; the impact the truck traffic might have to deter future economic development and historic preservation activities in downtown Metamora; as well as "risks of exacerbating groundwater contamination that has already spread from the Metamora landfill Superfund site to the Scout property that is beginning to impact nearby household water wells."

In a separate motion to intervene, Judge Holowka and Metamora Township legal counsel Mike Nolan had no objection to allowing Ajax Paving Company to join AAOM in

its suit against the township citing a state gravel statute allows the gravel mine and paving companies to extract aggregate from the D-bar-A property.

Judge Holowka however, sought a thorough written record by the MLPA of its reasons to intervene with the Metamora Township suit.

“This is serious business. This is a threshold matter to determine who will participate in this matter ... There’s no rush to judgment,” said Judge Holowka, who wants all litigants to provide his court with comprehensive background information as he anticipates whatever decision he makes will end up in Michigan appellate court.

AAOM counsel opposes the motion by MPLA to intervene because they contend MLPA is not a proper party to the lawsuit.

The MLPA purports to be a 501 (c)(3) tax-exempt charitable organization, though AAOM says MLPA is acting in violation of the Michigan Charitable Organizations and Solicitations Act.

In AAOM’s response, filed with Judge Holowka’s court last week, its counsel said, “the MLPA is prohibited from engaging in substantial lobbying efforts and the MLPA has repeatedly told the federal government it has engaged in no lobbying activities at all. Yet, the MLPA proudly admits in its motion and on its website that it has engaged in just that behavior. Furthermore, the MLPA has repeatedly misrepresented its actions — and thus the basis for its tax-exempt status — in tax filings and solicitations and donations.”

AAOM also counters that the MLPA is attempting to litigate using tax-deductible donations. “There are strict limits on how those funds can be used, which the MLPA does not appear to meet,” stated AAOM’s document submitted last week to Judge Holowka’s office.

Bzdok is confident his written response to AAOM’s “wild” assertions will satisfy the court. Nolan welcomes MLPA’s interest in joining the township suit.

“I hope they get in the case, because we don’t want to do this twice,” said Nolan. “Their information would be beneficial to the case.”

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