

Courts

Agreement springs from RV park lawsuit

By Sheri Mcwhirter smcwhirter@record-eagle.com Aug 6, 2021

1 of 3



This clearcut site near Torch Lake in Milton Township's unincorporated Torch River village is where an RV park was once planned. Record-Eagle file photo/Andrew Rosenthal



BELLAIRE — A nonprofit citizen group filed a lawsuit and injunctive relief request to halt work at the site of a planned RV park in a Torch Lake shoreline village, while another recent heavy rainfall pushed more sediment runoff onto a neighbor's property.

A hearing on the preliminary injunction request July 19 resulted in a pending agreement among the parties.

Five days later, a thunderstorm's downpour flooded the clear-cut site and sent sand and silt rushing downhill and onto Terry Roote's lawn.

"It lasted until the developer went up there with a big excavator and dug a hole to help retain the runoff," Roote said this week.

"It wouldn't be so bad if it were clear water, but that's not been my experience. This is four times I've ended up with clay and silt in my yard."

Local authorities recently rejected site plans and a special use permit request for the RV park development near Torch Lake and Torch River, which flows from the former into Skegemog Lake beyond.

Before that, newly formed citizen group Torch Elk Skegemog Alliance filed suit last month against Jim and Lori Brewer, developers of the planned Torch River RV Park in Antrim County's Milton Township. Also named in the civil lawsuit is the Antrim Conservation District for its role in soil erosion permitting at the planned RV park site.

The suit alleges the court should intervene with a preliminary injunction to protect natural resources and the public trust from harmful environmental impacts; the plaintiffs point to Roote's experiences as proof the project is a public nuisance, according to documents filed with 13th Circuit Court.

"Since the initial excavation and vegetation removal on the property, TESA and the public has suffered irreparable harm to its interest in preventing the pollution, impairment, and destruction of the state's natural resources," the suit alleges.

Traverse City-based plaintiff's attorney Rebecca Millican could not be reached for comment this week, nor could defendant's attorney Andrew Blodgett, also of Traverse City.

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"This is an absurd request from an entity which claims to exist to protect the environment, and should be denied," the brief states.

TESA's leader strongly disagreed and said the developer's actions caused this problem from the start.

"The big thing we're looking for is to eliminate the erosion and repeat flooding of the Roote property," said TESA board president Tim Smith.

The group argues non-permitted clear-cutting of the hillside site led to these problems.

"Without any vegetation there to absorb the water and slow it down, it's going to happen again and again," Smith said.

Circuit Court Judge Thomas Power heard arguments on the injunction request in mid-July, when TESA, Roote and the developer agreed to various terms:

- slopes on eroded areas will be made as shallow as possible;
- plaintiff's environmental consultants will work with an arborist to create a revegetation plan that will include trees and native plantings;
- developer's engineers will provide calculations used to size retention ponds to plaintiff's consultants;
- a gravel access road will be removed, topsoil laid and the area vegetated;
- developers will provide TESA's attorney copies of all applications to township or conservation district officials for a year; and,
- the judge will provide oversight.

Smith said TESA's environmental consultants are now reviewing the RV park's designs according to those agreed-upon terms.

"We have a very strong case for making the improvements we're suggesting," he said.

Antrim Conservation District officials could not be reached for comment on the suit. No attorney has yet filed to defend the public entity.

Antrim County Clerk Sheryl Guy said a settlement conference was scheduled for the civil case on Feb. 15 next year, and a non-jury trial set for March 15-16 afterward. That's only should the pending agreement fall apart, though.

The RV park became a point of widespread contention last year when township planning commissioners first considered the 80-site design planned for a hillside within Torch River village. More than 120 people showed up for a public meeting on the issue at a local park — most to voice opposition — during the middle of last year's pandemic restrictions.

Proponents of the RV park contended the plan was allowed within existing zoning regulations, and the owner could do what he wanted with his land. It did not matter whether the neighbors disapproved, they've repeatedly said.

Opponents, though, argued the plan calls for too many camping sites in a community already known for its hectic summertime traffic, and expected stormwater and septic runoff would negatively affect both the environment and neighbors.