

ACLU of Pennsylvania ~ Clean Air Council Delaware Riverkeeper Network

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Court Dismisses SLAPP Lawsuit Over Fracking Against Butler County Homeowners and Parents of Mars Students

Pittsburgh, Pa: The Butler County Court of Common Pleas this week dismissed a lawsuit filed against five Middlesex Township residents and two nonprofit organizations, the Delaware Riverkeeper Network and Clean Air Council, who oppose a local pro-drilling/fracking zoning ordinance. The lawsuit brought by a developer, Dewey Homes & Investment Properties, and its co-plaintiffs sought to make local residents and the nonprofit organizations Delaware Riverkeeper Network and Clean Air Council pay them more than \$500,000 for pursuing a legal action that had so far prevented gas companies from being able to drill and frack in close proximity to the town's schools and residential neighborhoods.

The ACLU of Pennsylvania was part of the legal team that helped defend against the claims. The ACLU, Delaware Riverkeeper Network, and Clean Air Council characterize the lawsuit as a SLAPP suit (strategic lawsuit against public participation), which is a dangerous legal tactic designed to stifle dissent and punish core First-Amendment-protected activities, such as speaking at public meetings and filing appropriate legal challenges to the proposed commercial activity.

Vic Walczak, lead counsel on the case for the ACLU, hailed the judge's decision. "This is a victory for the First Amendment, and for the right of all Americans to speak their minds on important issues."

"We are grateful for Judge Horan's decision to dismiss this baseless lawsuit," said **Maya van Rossum, the Delaware Riverkeeper**. "From day one, all we have been doing is seeking to enforce the environmental rights guaranteed and protected by Pennsylvania's Constitution, and working to protect our communities from dangerous pollution and hazards. No one should be hauled into court for that."

"This SLAPP suit has not succeeded in deterring us from advocating for people's rights to be safe in their communities," said **Joseph Otis Minott, Chief Counsel and Executive Director for**

Clean Air Council. “With this lawsuit behind us, we can focus on all the work still to be done in protecting public health and welfare.”

The complaint brought by Dewey Homes and co-plaintiffs stated that the defendants, by arguing against a zoning ordinance that would have allowed drilling and fracking operations, had interfered with leases they had with gas developers. The Mars residents and 2 non-profits argued in court that this complaint lacked merit, and was not even specific enough for them to understand who was being charged with what. Judge Marilyn J. Horan agreed with the defendants. “This Court concurs that the pleadings lack sufficient specificity to support the claims as pled. The pleadings also fail to appropriately associate the various allegations with specific Defendants.” Judge Horan went on to allow the plaintiffs to file an amended complaint within twenty days, if they choose.

The controversial ordinance in question allows drilling, fracking and associated infrastructure in over 90% of Middlesex Township, including in residential communities, agricultural districts, and within a mile of the 3,200 elementary to high school students who attend the Mars Area schools. On October 10, 2014, four of the five Middlesex Township residents, who are homeowners and have children in the school district, the Delaware Riverkeeper Network, and Clean Air Council challenged the zoning amendment for removing core protections to residential neighborhoods from dangerous industrial activities; for violating the Environmental Rights Amendment of the Pennsylvania Constitution; and for failing to protect public health, safety, and welfare by allowing shale gas extraction, drilling, and gas infrastructure to occur so close to where children, families and residents live, learn, work, and play.

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