

***ACLU of Pennsylvania
Clean Air Council
Delaware Riverkeeper Network***

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**Butler County Homeowners and Parents of Mars Students Warn
Developer and Gas Leaseholders To Withdraw Lawsuit Over
Fracking or Face Sanctions**

Pittsburgh, Pa: The ACLU of Pennsylvania has sent a letter to a Butler County developer and its co-plaintiffs demanding that they drop their lawsuit 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 letter states that the ACLU will seek sanctions against the developer, Dewey Homes & Investment Properties, and its co-plaintiffs, for filing a frivolous lawsuit intended to “harass and inflict expense” on the defendants if they do not drop the complaint. The ACLU considers the lawsuit 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.

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. In late May, Dewey Homes and several gas leaseholders in the area sued the fracking opponents, parents of Mars students and

homeowners who live close to the proposed wells, for allegedly interfering with their business interests.

“This is the ugliest kind of lawsuit; it is intended to terrorize people into abandoning their legal rights,” said Maya van Rossum, the Delaware Riverkeeper. “Pennsylvania communities are already suffering at the hands of fracking and drilling operations; we should not now have to endure the heavy hand of threats and intimidation simply for exercising our constitutional rights to freedom of speech and ensuring a healthy environment.”

“This is a SLAPP suit and constitutes an abuse of the legal system,” said Joseph Otis Minott, Chief Counsel and Executive Director for Clean Air Council. “The suit was brought to intimidate people into giving up their constitutional rights. Parents have a right to voice opposition to fracking where it poses a real health risk to their children – the parents of the Mars Area School District will not be deterred by this frivolous lawsuit. The Council will work alongside parents to ensure this absurd lawsuit is appropriately challenged and that people’s rights to free speech and to clean air and water are protected.”

According to the ACLU’s June 29 letter, the legal action filed by the Middlesex Township residents, Delaware Riverkeeper Network, and Clean Air Council, is protected by the First Amendment right to petition the government. Additionally, Dewey Homes & Industrial Properties’ action represents precisely the type of suit that the state’s Environmental Immunity Act, 27 Pa.C.S. §§ 8301-8305, was enacted to prevent. The Act’s stated purpose is to “protect those persons targeted by frivolous lawsuits based on their constitutionally-protected government petitioning activitie[s]....” To date, Dewey Homes’ attorneys have not responded to the ACLU demand letter.

“If the First Amendment stands for anything, it means people have the right to protest government actions, by speaking out, organizing like-minded citizens and using established legal processes, without getting sued for their political and legal activism,” said Witold Walczak, legal director of the ACLU of Pennsylvania and one of the defendants’ attorneys.

“Corporate America already exercises a disproportionate influence on governmental decision makers; they cannot be allowed to silence their opponents and shut down public discussion around an issue that has potential major health and environmental impacts on the local community,” continued Walczak.

The five Middlesex Township residents, the Delaware Riverkeeper Network, and the Clean Air Council are represented by Walczak of the ACLU of Pennsylvania, Mike Healey of the Pittsburgh law firm Healey & Hornack, as well as a team of private attorneys interested in protecting constitutional, First Amendment and environmental rights. A copy of the letter to Dewey Homes & Industrial Properties’ can found at: http://bit.ly/DRN-ACLU-SLAPP_Sanctions_Letter

“When the Delaware Riverkeeper Network and seven towns secured the Pennsylvania Supreme Court determination that allowing drilling and fracking in every part of every community was, amongst other things, a violation of the peoples’ constitutional rights to pure water, clean air and a healthy environment, it should have been embraced as guidance for how communities could legally proceed on this matter. Instead, the drilling industry took it on as a challenge to use their political power, big bank accounts, industry lawyers and media spin-meisters to find other ways to methodically advance their dangerous and damaging industrial operations, unfettered by environmental protection or community concerns,” added van Rossum.

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