

Locked gate lawsuit headed to federal court

By Don Grigas

Staff writer

Attorneys representing the village of Woodridge filed a motion Dec. 21 in Will County Circuit Court to have a lawsuit jointly filed in November by the village of Bolingbrook and two Bolingbrook property owners against Woodridge to be heard in federal court.

The lawsuit was filed Nov. 23 against Woodridge after the village erected a locked gate across Murphy Road.

According to the motion for removal, Woodridge is arguing that a count of the initial lawsuit filed against Woodridge claims Woodridge's action violates federal codes depriving the property owners of "economically viable uses of their property by government actions without just compensation," and thereby should be heard by the federal court system, not Will County Circuit Court.

Count III in the initial lawsuit claims taking private property without just compensation violates the Fifth Amendment to the U.S. Constitution.

The initial lawsuit also seeks declaratory judgment to have Woodridge remove the gate, and prevent further obstruction of the property located at the north end of Murphy Road.

Woodridge had 30 days from the date of initial filing to respond.

Officials from both villages initially said they were hopeful the issue could be resolved out of court, but both sides appear to be as far apart as they were when the suit was filed.

"I met with (Woodridge Village Administrator) John Perry before Christmas, but there was no progress in the discussions," Bolingbrook Village Attorney Jim Boan said.

Boan said he had not reviewed the motion and had no comment, citing the pending litigation.

Peg Halik, assistant administrator for Woodridge, said "we think there is interest on both sides to see what we can do to work it out (outside of the court system)."

Attempts to contact Perry were unsuccessful.

In November a gate erected by Bolingbrook at the south entrance to the 20-acre Budnik Property was removed by Bolingbrook Public Works Department employees.

Within hours Woodridge public works employees had erected a similar gate

and locked it, preventing access to the 20-acre Budnik Property owned by Jay White and Larry Budnik, co-plaintiffs in the suit.

White and Budnik have applied for Bolingbrook building permits to construct a coating business on the site after initial plans were approved by Bolingbrook.

Although the property is within the corporate boundaries of Bolingbrook, Woodridge contacted the property owners by letter and stated the owners had to take part in a public hearing regarding the impact of the proposed business on the Woodridge road system, and sought a \$3,000 fee.

The complaint by Bolingbrook and the property owners claims Woodridge has illegally barricaded the street to prevent access to the property.

The next court date is scheduled for Thursday, Feb. 16 in U.S. District Court for the Northern Illinois District in Chicago.

"Once the motion to remove is filed in circuit court it automatically gets sent from state to the federal court system," said Chuck Corrigan, an attorney with Dommermuth, Brestal, Cobine & West Ltd., the law firm representing White and Budnik.

Corrigan said his clients are being unfairly blockaded from their private property by Woodridge.

"My clients just want access to the road so they can go forward with their plans, but the two villages are in a dispute and my clients are caught in the middle," Corrigan said.

"We think Woodridge's motion to place this case in the federal system is a bit of a delay tactic, and if my clients are delayed a few months from developing their plans, it will hurt them," Corrigan said. "They would like to begin breaking ground March 1, but we'll have to wait and see what happens," Corrigan said.

Murphy Road is under the jurisdiction of Woodridge, and the gate is on property under the jurisdiction of Woodridge, according to Woodridge Public Works Director Phil Modaff.

"Murphy Road is our roadway, and there are some issues that (property owners) need to deal with Woodridge on regarding access and use," Modaff said.

Woodridge officials claim Bolingbrook erected the gate several years ago to prevent illegal dumping of trash or other objects at the site, which is near Woodward Avenue south of Boughton Road, adjacent to the North-South Tollway.

Modaff said Woodridge crews replaced the gate to continue to prevent such fly dumping.

Bolingbrook filed the suit Nov. 23 after negotiations to have the gate removed were unsuccessful.

"We have talked to the village of Woodridge without success, and now we have no choice but to go to the court system for relief," Bolingbrook Mayor Roger Claar said shortly after the suit was filed. "Clearly it isn't appropriate that one village should block the only access to property in another village. We would never think of doing the same thing and blocking off a street to a neighboring town."