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Judge dismisses C4's suit against Crystal City

By Patrick Martin
For the Leader

Judge Benjamin Lewis has dismissed a two-year-old lawsuit brought by the Concerned Citizens for Crystal City against the city of Crystal City for alleged Sunshine Law violations.

Shortly after the lawsuit was filed in 2007, Wings Enterprises joined the suit as an intervenor to protect its interests in a proposed iron ore smelter that was at the heart of the lawsuit.

Lewis, a special judge appointed by the Missouri Supreme Court when all local judges recused themselves, agreed with the request by the defendants to sanction C4 and the four other named plaintiffs.

The sanction Lewis imposed Nov. 24 was to dismiss the case because Jack Ginnever, president of C4, refused to supply opposing attorneys with the identities of people who posted comments to his Web site, clearpillar.com.

C4 was formed in late 2007 after plans for the smelter became public. The group has opposed the project, which was based on the city buying the former PPG glass plant from PPG for \$2.2 million, then leasing it for 100 years to Kennedy for a one-time payment of \$2.2 million. The city also would get a tonnage fee based on the amount of iron ore processed at the plant.

Many of the posts on clearpillar.com have criticized the project and city officials who negotiated it.

The lawsuit alleged that the city of Crystal City conducted secret meetings in violation of Missouri's open meetings and records law, known as the Sunshine Law, while negotiating with Wings and its owner, Jim Kennedy.

The city's attorney, David Senkel, declined to comment on the dismissal.

"It's still pending," Senkel said. "There could be post-trial motions or an appeal. It wouldn't be prudent to comment."

Ginnever confirmed that his group will appeal. Besides C4 and Ginnever, who lives next door to the site for the proposed smelter, the plaintiffs are: Sheryl Boss, Ginnever's partner; Bill McKenna, a former state senator and former president of Jefferson College; and Jill Thomas. Debbie McKenna, wife of Bill McKenna, was a plaintiff originally

but dropped out of the suit after being elected as a Ward 3 councilwoman in April 2008.

Lewis dismissed the case with prejudice, meaning it cannot be refiled by the same plaintiffs.

The dismissal followed a pair of failed requests by the plaintiffs to have higher courts overrule Lewis' ruling to compel Ginnever to reveal the identities of the Web site posters. Both the Court of Appeals and the Missouri Supreme Court denied an application for a writ of prohibition to void Lewis' order.

In an interview, Ginnever said he refused to make the names public because he had guaranteed anonymity to users when they signed up as members of the Web site.

"The whole heart of my refusal was that when they signed up, I would not give that information to anybody else," Ginnever said. "Obviously everybody who posted to the forum said things that they would not have said if they had known their identities would become public. Some people feared for their jobs."

"Besides me protecting them because I told them I would, I could also be sued by them because I agreed to protect their identities," he said.

Ginnever said he gave a list of conditions under which he would give up the names, but the judge did not accept his conditions.

"I asked them (defendants) to state why they needed it, that the judge agree with it and for a court order that protects me against lawsuits," Ginnever said.

Crystal City Mayor Tom Schilly has been a staunch supporter of the smelter.

"I respect the right of others who don't agree with some of the things I do in the community," Schilly said, "but it's time for us to move forward in the best interests of the city. It was dismissed. It's been a long drawn-out ordeal."

Schilly said he had nothing specific to report on progress of the project.

"I do talk with Mr. Kennedy from time to time, but this is in Mr. Kennedy's ballpark," he said. "The last thing we did was issue the conditional-use permit. But I believe they are moving forward."

That permit was approved March 12 on a 4-to-4 vote of the City Council. Schilly broke the tie by voting in favor of the permit.

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