

Lawsuit brought against Genoa Township

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This drawing shows the proposed 91-unit Courtyards at Big Walnut. The buildings to the east are the Genoa Township Police Department (blue roof) and the Genoa Township Fire Department (red roofs).

Courtesy | Genoa Township

WESTERVILLE — A lawsuit has been filed against Genoa Township by Epcon Communities.

In part, the lawsuit seeks “A permanent injunction enjoining the Township from preventing Plaintiffs from completing their residential community based on the unconstitutional denial of its application to rezone the Property to Planned Residential District.”

The lawsuit alleges “the township has deprived plaintiffs of their property and liberty interests ... without due process of law in violation of ... the Fourteenth Amendment to the United States Constitution.”

Section 1 of the Fourteenth Amendment states, “No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”

On Aug. 29, 2022, the Genoa Board of Trustees held a public hearing on a rezoning and preliminary development plan to build 91 single-family homes on about 56 acres at the northwest corner of Big Walnut Road and state Route 3 that would be called The Courtyards at Big Walnut. The property is zoned as Rural Residential.

During the nearly four-hour meeting, 29 members of the public spoke about the development. Most were against it. Dublin-based Epcon Communities has developments in Delaware, Powell and Concord Township.

Trustee Connie Goodman voted in favor of the rezoning, while trustees Mark Antonetz and Renee Vaughan voted against the rezoning. In the minutes of the meeting, the reasons given to deny the rezoning request was because "it is not compatible with land use of adjacent properties," and "it doesn't promote the health, safety, morals, and general welfare of the present and future inhabitants of Genoa Township."

Epcon Communities CEO Joel Rhoades, who spoke at the hearing, issued a statement to The Gazette:

"On February 16, 2023, Epcon, through its affiliate, EC New Vision Ohio, LLC, filed suit against Genoa Township, Ohio, in the US District Court in Columbus, Ohio.

"The suit was filed after Genoa Township wrongfully and arbitrarily denied Epcon's rezoning for a residential development near the northwest corner of the intersection of SR 3 and Big Walnut Rd in Delaware County, Ohio.

"Epcon followed a time consuming, excruciating and expensive zoning process. It completed every step necessary to comply with the Township's Comprehensive Plan as well as the Township's and community's requests, but in the end, its efforts were futile as the Township unreasonably denied the application without any legitimate basis to do so. It was discovered that one member of the Board of Township Trustees had a conflict of interest and should not have voted on the rezoning. Epcon sought to avoid this lawsuit by requesting a rehearing, but that request has been ignored.

"Epcon was left with no other choice, than to vindicate its property rights through this lawsuit."

The lawsuit alleges that "only two homes separate Trustee Vaughan's home from the property," and "the township refuses to conduct a rehearing despite the trustee's conflict of interest."

A Genoa Township spokesperson declined to comment on the case.