
Lake residents to sue Lebanon

Property owners want to live in homes year-round

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LEBANON — Claiming a violation of civil rights, more than 35 lake property owners last Friday filed a notice of intent to sue the current and former planning and zoning commission members, among other officials.

In addition to the PZC, former Resident State Trooper Ron Turner, Town Planner Philip Chester and First Selectman Joyce Okonuk are listed as defendants.

The property owners want the right to choose to live in their homes year-round, saying the option is currently not available to them.

Current zoning regulations require a year-round lake district residence must be located on a minimum 2-acre lot, with anything less considered “seasonal.”

The owners want the ability to take the “seasonal” controls away from the town so they can live there year-round,

no matter how many acres they have.

In 2009, the PZC, due to challenges with enforcement of the floating 30-day off-season occupancy, had discussed adding regulations on the lake districts to better enforce the 30-day window.

After a public hearing in September 2009, where many residents opposed the change, the commission decided it would be better to keep enforcement through the current regulations.

The notice of intent to sue was prepared by the property owners’ attorney — A. Paul Spinella, of Spinella & Associates.

According to the notice, the owners and residents intend to sue the town officials and employees by claiming numerous rights guaranteed to them by law were violated, deprivation of civil rights under the Fifth and Fourteenth Amendments to the U.S. Constitution.

Current PZC members listed on the
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notice include Jim Jahoda, David Fields, Robin Chesmer, Susan Brett Davis, Keith LaPorte and Wayne Budney. The former members are Mark Bancroft, Alan Lamb and Martin Barletta.

"I am aware that there are some property owners who would like to see the zoning regulations changed at the lake, just as I am aware of other residents who would like to see no changes to the regulations," Chester said in his statement. "My hope is that this issue can be resolved quickly and without great cost to any resident."

The three lakes in Lebanon mentioned in the suit include Red Cedar Lake, Lake Williams and Amston Lake.

Currently, the town has zoning regulations on property owners, who live in the "lake district," where owners may live in or conduct housekeeping from Nov. 1 to May 1 and any 30 days between Nov. 2 and April 30.

The "lake district" includes Lake Williams, Brewster Pond, Stiles Pond, Big Pond, Savin Lake, Spencer Pond, Amston Lake and Red Cedar Lake.

Minus the 30 days in-between, lake residents who have a "seasonal dwelling" aren't allowed to be in their homes for about 150 days each year.

Property owners in the "lake district" are also not allowed to enroll their children in town schools and are not allowed to

volunteer for any boards or commissions in town.

Lebanon's 2010 plan of conservation and development states the three lakes in question were originally "planned and developed as seasonal or summer communities on lots under ¼-acre in size."

The plaintiffs argue "the regulations in question constitute a continuing violation of the property owners' rights."

The standards in question, limiting lots of less than 2 acres to "seasonal" occupancy, were originally adopted in 1962.

Current commission member David Fields, former original zoning member, said there was no concept of "seasonal dwellings" until 1962, when the commission established standards limiting year-round occupancy at the lakes.

"We were worried about the septic systems with the houses being so close together," Fields said.

Since that time, homes built after 1962 have been recognized as "seasonal dwellings."

The town's plan states "increasing lake use or occupancy would negatively impact the fragile environmental and water quality at the lakes, as well as the seasonal character of its neighborhoods."

The plan warns that if increased occupancy at the lakes were to happen, it would "require additional municipal services for police, fire, schools and road maintenance, the cost of which would be felt town-wide and

would more than offset any future tax benefits."

The property owners are claiming from June 1, 1980, through the present, their injuries include "loss of use of property, denial of political rights and access to education and other services offered by town," and others.

"The property owners' land was used as year-round occupancy dwellings prior to April 1962 and, therefore, the regulations and recent enforcement efforts by the town constitute an impermissible denial of a legal nonconforming use," the notice states.

Okonuk said the town "wasn't surprised" about the notice.

"There had previously been rumblings," Okonuk said, adding the "matter is now in the hands of the town attorney."

Okonuk said she believes the town's insurance carrier, CIRMA, will represent the town.

"I know this has been an issue that has been discussed at length for decades," Okonuk said. "This is going to be a very interesting case to follow."

The Lebanon Lakes Association, a group of seasonal residents living on the lakes, has its president and vice president vying for some of its members' rights.

Lebanon Lakes President David Wigfield, who owns a home on Lakeside Drive on Red Cedar Lake, has a 3,800-square-foot home, fully insulated with central air conditioning and two fireplaces. His home is seasonal.

"You couldn't make this up," Wigfield said. "They cannot restrict a person's property like this."

Wigfield said he thinks there is "no way" he and the other property owners can lose. "We aren't stopping," he said. "It's going to end."

Wigfield noted the town would get an increase in tax revenue because lake homeowners currently get a 20-percent tax break for their seasonal status.

Lebanon Lakes Vice President Joe Santalucia of Willimantic wants to build on property on Lake Williams, but he wants to live at his prospective home year-round.

"I guess it's just the way Lebanon is," Santalucia said. "Lots of people don't like this."

Santalucia said he is going to wait to build his home until the entire process is done. "This is the only way we can do this," he said.

Spinella said he was confident in the current case.

"Our position is that this is a constitutional violation," Spinella said last week. "People have the right to live in their homes any time that they want in America."

Spinella and his firm represent a similar case in Old Lyme, where residents sued the town for not being able to live in their homes year-round.

Spinella said that case "is in the process of being resolved" at this time.