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Judge weighs fate of Covington waste site

by Charlie Chapple, The Times-Picayune

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A state judge, after hearing more than an hour of arguments from attorneys Tuesday, took under study a suit by a citizens group contesting the legality of a St. Tammany Parish zoning permit for a solid-waste transfer station north of Covington.

Judge Peter Garcia said he would rule by early next week on the parish government's motions to dismiss the suit by the North West St. Tammany Civic Association. The association, contending parish zoning ordinances were violated, is asking for a court order to void the conditional-use permit, initially issued almost two years ago, for the facility now under construction in an industrial park along Louisiana 25, just north of Hard Hat Drive.

Neil Hall, attorney for the Parish Council and Zoning Commission, argued that the parish followed procedures and regulations in granting the permit. And he contended that the "writ of mandamus" sought by the association to void the permit is the wrong type of legal procedure. A writ of mandamus cannot be used to contest legally discretionary actions by the parish, Hall said.

The suit also should be dismissed, he said, because the plaintiffs did not appeal to the Parish Council decisions by the Zoning Commission in November 2006 to issue the permit to Southeast Investments and in February 2008 to extend the permit. He said the plaintiffs did not legally contest the decisions within the time period allowed by parish ordinances.

Association attorney Alex Peragine countered that his clients' position is the conditional-use permit is illegal and not valid because parish officials arbitrarily waived a requirement for a traffic-impact study for the transfer station. The permit also should be null and void because Southeast Investments no longer owned the 11-acre site for the station when the permit was extended in February, he said.

There is no time period or limit on an illegal act, Peragine said. The judge has the discretion to decide what type of legal action is technically needed to void the permit, Peragine said. And that's all the plaintiffs are trying to accomplish, he said.

Garcia said he would first rule on the motions filed by the parish and then decide if another course of legal action is needed to decide the dispute. If additional testimony or arguments are needed, a hearing will be set for Tuesday at 9 a.m., the judge told a courtroom filled with some 50 residents.

Those residents and others began organizing to fight the facility, which they say amounts to a dump near their neighborhoods, about two months ago when they learned about the

project. And they filed suit through the area's longtime civic association.

False pretenses alleged

Southeast Investments, headed by Slidell businessman Chris Jean, got the initial permit and its extension in February. But Peragine produced land records that show Southeast Investments had sold the 11 acres for the waste station on Nov. 7, 2007, to Cat-4 LLC, another company owned by Jean.

Then on Dec. 27, 2007, Cat-4 sold the site to IESI, one of the nation's largest solid waste companies, which also bought a regional garbage company, Coastal Waste Services, from Jean.

Peragine said the waste station site had been sold twice when Southeast Investments applied for and received the permit extension. He said the extension was obtained under false pretenses and that parish ordinances specifically state that "conditional uses are not transferable."

Moves defended

Hall said the conditional-use permits can be transferred to other parties as long as the allowed use remains the same. Parish ordinances also allow parish traffic engineers to waive requirements for a traffic study if they determine a study isn't necessary, Hall said.

IESI in August got parish building and operating permits to construct and run a facility where garbage trucks drive up a ramp inside an enclosed building and dump their loads onto larger trucks, which carry the solid waste to a landfill outside the parish for disposal.

Company officials say plans call for the facility only to be used by Coastal Waste Services.

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