

Memo

To: Township Board
From: Holly Brandt, Clerk
Date: February 14, 2019
Re: Joel Hack & Wren Beaulieu-Hack Litigation vs. Charter Township of Milford

In regard to the Joel Q. Hack, et. al. (Plaintiffs) vs. the Charter Township of Milford, et. al. (Defendants) US District Court litigation, the following actions have occurred, which were accompanied by related filings:

- January 16, 2019 – Plaintiffs filed their Response to the Township’s Motion for Summary Judgment. In its Motion for Summary Judgment, the Township argued that Plaintiffs’ claims were not ripe, that the Hacks had not exhausted their administrative remedies, and that they could not state a claim for violation of their right to due process or an unconstitutional taking of their property. In their response, Plaintiffs once again mischaracterized their claims and argued that they are not required to exhaust their administrative remedies. In addition, despite the assertion of any such claims in their Complaint, Plaintiffs now allege facial constitutional challenges to Milford Code Sections 32-574 and 32-586 on the grounds that they are unreasonable.

Plaintiffs continue to claim that: (1) the Township approved the fill activity upon their property when the Township approved the building plans on December 8, 2017; (2) a neighbor “allegedly” contacted the Township regarding the placement of fill material, and received favor from the Township; and (3) HRC approved the drainage plan in a letter dated August 24, 2018. In connection with requesting the Court deny the Township’s Motion, Plaintiffs also asserted that they were not permitted to conduct discovery, which is untrue.

- January 17 and 24, 2019 – The parties filed a Stipulation to Adjourn Mediation, which was scheduled by the Court to be complete by January 31, 2019. In response, the Court issued an Order to Adjourn Mediation, recognizing that Mediation had been set for February 7, 2019 with attorney William Gilbride.
- January 24, 2019 – Plaintiffs filed with legal counsel their Answers to the Township's Discovery Requests, which do not get filed with the Court.
- January 29, 2019 – The US District Court issued a text-only Order dismissing as moot Plaintiffs' Motion to Compel Mediation, which was previously filed by Plaintiffs in an attempt to harass the Township and complicate the scheduling process. Judge Battani dismissed Plaintiffs' Motion on the basis that the parties did, in fact, schedule Mediation for February 7, 2019. The Court's Order was transmitted by electronic communication, so no paper document was issued.
- February 1, 2019 – Plaintiffs filed their Initial Witness List with the Court.
- February 4, 2019 – The Township filed its Initial Witness List with the Court.
- February 6, 2019 – The Township filed its Reply to Plaintiffs' Response to the Township's Motion for Summary Judgment.

In its Reply, the Township asserted that Plaintiffs were attempting to argue facial challenges to Milford ordinances, but there were no such challenges to any ordinance provisions contained in Plaintiffs' Complaint. The Township also asserted that Plaintiffs were directly avoiding the Township's arguments regarding ripeness and failure to exhaust administrative remedies, emphasizing to the Court why it should grant the Township's Motion for Summary Judgment.

- February 7, 2019 – The parties participated in Facilitative Mediation, as directed by the Court, but were unable to reach a settlement. That information was shared by mediator William Gilbride with Judge Battani.

The Court has yet to establish a hearing date on the Township's Motion for Summary Judgment, but the deposition of Township/HRC engineering consultant, Michael Darga, has been noticed by the Plaintiffs for February 20, 2019.