



Judge's Decision Redefines City Property and Citizens' Rights to Hold City Council Accountable

November 19, 2014

On November 4, Judge James Alexander of the Oakland County Circuit Court issued his decision in the lawsuit filed by Don't Drill the Hills, Inc. (DDHI) against the City of Rochester Hills, Jordan Development Co., and Sunoco Pipeline. DDHI is highly disappointed in the Judge's decision.

DDHI sued the City of Rochester Hills and Jordan Development Company over a lease for gas and oil rights of two city parks and a cemetery. DDHI also sued the City and Sunoco Pipeline for granting an easement for a pipeline in Bloomer Park. The City approved these leases and easements even though the City Charter requires a public vote before changes can be made to parks.

Judge Alexander dismissed the lawsuit saying that the lease did not violate the Charter and DDHI had no right (or "standing" in legal terms) to sue to try to enforce the Charter. DDHI strongly disagrees with the Judge's decision.

The decision holds grave consequences for the citizens of Rochester Hills. It redefines city parks to include only the surface of the land. Typically property is considered the land you stand on to the core of the earth and to some degree the air above the earth. The idea that "land" is only the surface of the land is somewhat comical (if a dog digs a hole at the park is the bottom of the hole out of the park?). But, it could hold serious consequences for conserving the natural beauty and resources of the park. For example, additional businesses could seek to establish other enterprises beneath park property that could bring contamination, erosion, etc.

The decision states that DDHI cannot sue the City for violating the Charter (it does not have "standing"). This sets a dangerous precedent. It means that citizens' ability to sue the City for illegal actions has been limited. If City Council takes actions that residents feel are illegal, based on this decision, courts could automatically rule that the citizen's case can be dismissed. Our elected officials could not be held accountable through the court system for their actions during their terms of office. Expensive, time-consuming recalls would be the only options left to citizens. Our democratic system is built on checks and balances. This decision appears to tip the balance of power away from a democratic approach. This unexpected decision is frightening to those who wish to hold elected officials accountable under the law.

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In conclusion, the decision:

- Allows the City of Rochester Hills-Jordan Development Company Lease to stand, and thus allows two city parks to be used for oil exploration without voter approval.
- Redefines parks in a way never expected by the public thereby raising concerns about potential threats to the conservation and use of those properties.
- Allows the easement agreement between the City of Rochester Hills and Sunoco to stand and thus opens the door for further pipeline changes/expansions to occur in our parks without public vote.
- Creates a legal basis for citizen lawsuits against City Council to be automatically dismissed thereby preventing citizens from having recourse against elected officials during their terms of office other than official recalls.

Letting this decision go unchallenged may have devastating effects. Please help support an appeal and help us build public awareness about these issues.

The full text of Judge Alexander and the pleadings filed in Court by the parties are here:

<http://dontdrillthehills.org/lawsuit/>

The appeal is fully funded through donations, and cannot proceed without financial support. Donations can be made at:

<https://www.crowdrise.com/DontDrilltheHills/>

Or, checks made payable to Don't Drill the Hills can be sent to:

Don't Drill The Hills, Inc
P.O. Box 82524
Rochester, MI 48308-2524

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Don't Drill the Hills, Inc. is a non-partisan grassroots nonprofit corporation that is building awareness of the risks of horizontal drilling in high-density residential and K-12 School areas. Concerns include: property rights, property values, mortgage and insurance complications, as well as potential environmental and health risks.