

For Immediate Release: July 24, 2013 Contact: Dan Rohlf (503) 415-9111, rohlf@lclark.edu; Don Mench (503) 622-5588

Earthrise Law Center Wins SLAPP Suit in Federal Court

Portland, OR. In an opinion released Monday, Judge Michael Simon of the U.S. District Court in Portland ruled in favor of the defendants in a case that had all the earmarks of a classic SLAPP (strategic lawsuit against public participation). Earthrise represents the Mt. Hood Corridor Community Planning Organization (MHC-CPO), its individual board members, and land use committee chair in a suit brought by a developer upset about public comments submitted by the defendants to Clackamas County's land use permit process. Defendants' comments highlighted damage to the Sandy River and its sensitive salmon habitat caused by the partially completed development activities.

"This decision is an important step on the road to protecting both environmentally sensitive lands and citizens' right to give their opinions about proposed land use decisions to government decision-makers," said former CPO Land Use Chair Don Mench, a lead defendant in the case.

Simon's opinion concluded that the plaintiffs, Sandy developers Kip O'Connor, Big Mountain Excavation, and Lisa Konell, had failed to provide evidence to substantiate any of their claims and therefore granted defendants' motion for summary judgment. The ruling foreclosed a trial and was granted with prejudice, ending the case.

The plaintiffs claimed that the CPO and individuals intentionally interfered with the developers' business relations, as well as violated their constitutional rights to due process. In an earlier ruling, the Court threw out the business relations claim under the State of Oregon's anti-SLAPP statute, a law specifically designed to protect citizens who take advantage of public involvement opportunities to provide input into government decision-making proceedings. The court's most recent ruling rejected plaintiffs' argument that Don Mench colluded with Clackamas County employees to violate the developers' constitutional rights.

"Lawsuits like this have a chilling effect on citizens and community volunteers who take the time to get involved and work to help protect the environment," said Dan Rohlf, lead attorney for the defendants. "This important ruling demonstrates that courts will look skeptically at suits whose main purpose is to intimidate people who care enough to speak up."

Earthrise Law Center is the domestic environmental law clinic at Lewis and Clark Law School. Two third-year law students, Nick Lawton and Laura Hagen, did much of the work on the case.

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