

MSNBC.com, Testimony concludes in lawsuit trial over mosque (4.26.12)

Closing arguments have concluded in a two-day trial about whether enough public notice was given before the site plans were approved for a controversial mosque in Murfreesboro.

The plaintiffs put on their final witness in a last ditch effort to sway the court to side with them.

"I would conclude the communication had been unsuccessful and had failed," media marketing consultant Frank Bigelow testified.

Bigelow was allowed to testify as an expert witness. He concluded county officials fail to give adequate notice of the meeting.

He said The Murfreesboro Post only reaches one percent of the total residents of Rutherford County, excluding municipalities like Murfreesboro, Smyrna, LaVerne and Eagleville.

"That's not an effective reach," Bigelow said. "There are those other citizens, 99 percent of that 81,000 (county residents) who might have an interest in this location who won't even know about it."

County attorneys tried to discredit him.

"You're not an expert in land use. You're not an expert in zoning. You're not an expert on what is or isn't adequate notice under Tennessee law," asked county attorney Josh McCreary.

"No," Bigelow responded.

Bigelow testified as an expert witness for the plaintiffs, but his words appeared to almost backfire.

"As a newspaper man, I'm inclined to say every newspaper is a newspaper of general circulation, because I would like for newspaper to be eligible for this revenue," Bigelow testified.

The attorney for The Murfreesboro Post tried to persuade Chancellor Robert Corlew III to rule on a declaratory judgment that the paper is a newspaper of general circulation.

"The plaintiffs' expert's testimony in this matter confirms that we are a newspaper of general circulation," said the newspaper's attorney David LaRoche.

The judge declined to rule, claiming not enough evidence was given.

The publisher of The Murfreesboro Post also took the stand. The paper's attorney tried to express to the court that if the plaintiffs win this case, it could be a financial hardship on the free

community paper, because a significant portion of its revenue is made from printing public notices.

That idea didn't sit well with attorney Joe Brandon.

"For them to continue to come up here and cry and whine about their paper if 40 percent of the revenue is taken away, is simply inappropriate argument," Brandon said.

Alecia Hodges, an attorney with Tennessee Open Records Council, testified on behalf of the county that adequate notice was given when notice of the meeting was printed in The Murfreesboro Post.

"(I was) concerned, but it wasn't something that made the notice inadequate, because the notice had been printed in The Post, and the agenda was available in the office," Hodges testified.

After the trial was over, the original plaintiff, Kevin Fisher, said he is hopeful Corlew will side with the plaintiffs.

"I feel very confident we're going to be successful in our efforts," Fisher said. "I think given the circumstances and issues raised by our attorney, I think that we're going to be okay."

Because this was a non-jury trial, Chancellor Corlew will make a written ruling. He said he'll try to have it done as promptly as he can.

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