

Judge's ruling stops construction of Tennessee mosque, finding public didn't get enough notice

NASHVILLE, Tenn. — Construction of a Tennessee mosque that has been strongly opposed by critics of Islam likely will be stopped after a judge ruled Tuesday that local officials didn't give the public adequate notice before the meeting where it was approved.

The mosque was one of several Muslim projects in the U.S. that hit a swell of conservative opposition around the same time as the controversy over a plan to build a Muslim community center near New York's ground zero.

Robert Corlew found that the Rutherford County Planning Commission didn't do enough to inform the public of the May 2010 meeting when it approved the site plan for the Islamic Center of Murfreesboro.

Though his ruling voids the approval, he noted there was nothing stopping the commission from reconsidering the issue and voting on the mosque site plan again, as long as any action they take is for "non-discriminatory reasons."

Saleh Sbenaty, a spokesman for the mosque, said the ruling was disappointing but his group remained committed to building the Islamic center. They have been worshipping for many years at a smaller site in Murfreesboro, a booming city of about 100,000 people southeast of Nashville.

Lead plaintiff Kevin Fisher wrote in an email, "Justice is served."

The opponents of the Tennessee mosque have fought for two years to stop construction. During lengthy hearings in 2010, they presented testimony that in effect put Islam on trial. A string of witnesses questioned whether Islam is a legitimate religion and promoted a theory that American Muslims want to replace the Constitution with extremist Islamic law and the mosque was a part of that plot.

The judge dismissed those allegations but held a trial on the narrower claim that the public meeting law was violated because meeting notice wasn't adequate. The meeting notice was published in the Murfreesboro Post, a free weekly newspaper that had a circulation of about 21,000 at the time of the legal advertisement was placed.

The ruling noted that only about 196 papers were placed in racks in unincorporated areas of the county, despite the fact that approximately one-third of the county's more than 250,000 people live in those areas.

State law requires that local governments provide "adequate public notice" for meetings, without defining what is adequate.

The county argued that local officials did all that was required of them legally by placing a notice in the print and Web editions of the newspaper — the same practice they use for advertising all public meetings. Those notices did not include an agenda.

The judge wrote in his opinion that it was important to consider the totality of the circumstances in deciding whether the meeting notice was sufficient. That includes the intense public interest the mosque construction has generated.

After the site plan was approved, mosque opponents organized a march and rally at which about 400 people showed up, with nearly an equal number turning out for a counter-protest to support the mosque.

The mosque also became an issue in a local congressional race, with Republican candidate Lou Ann Zelenik calling it a threat to the state's moral and political foundation.

Later, a dump truck on the site was burned in what federal officials determined was arson.

Recommend Tweet Personal Post .In his opinion, Corlew said the public interest in the mosque meant the county should have taken extra steps to ensure that the public was aware of the meeting where it would be discussed. Without spelling out what those steps might be, he notes that the county runs a cable television station and also has a website where the meeting notice and agenda were not posted. The county says that was an oversight.

“Without publication of the issues of business to be discussed at an otherwise routine meeting, citizens may be lulled into the mind set that only routine matters will be raised at a meeting, when suddenly a matter which is to them of earthshaking importance suddenly comes forth,” Corlew wrote.

County attorney Josh McCreary had argued in court that the mosque approval was a routine matter at the time and the intense public interest was part of a campaign by the plaintiffs to stir up opposition to the mosque after the fact.

“In this instance, everything they are relying on to prove this is a matter of pervasive public importance came after the lawsuit was filed,” he said in court, arguing that plaintiffs had made the situation “notorious.”

McCreary did not immediately return a call requesting comment on the ruling.

Although the Islamic Center of Murfreesboro is not a party to the suit, its members are the people most affected by the ruling.

Sbenaty, the mosque spokesman, said they are just beginning to digest Corlew's opinion and its implications. “I'm not sure what the next step is,” he said. “We need to take some time to think this through.”

As of Tuesday afternoon construction had not yet been halted, but plaintiff's attorney Thomas Smith said he expected that to happen soon.

After the ruling was made public, the Council on American-Islamic Relations called on the U.S. Justice Department to intervene to protect the rights of Muslims in Tennessee if the Planning Commission does not immediately issue new construction approvals.

"The judge's ruling is apparently based on a fictitious 'heightened standard for public notice when Muslims are involved,'" staff Attorney Gadeir Abbas said in a statement.

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