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Suit to save a scenic trailer park is restored

Court lets residents challenge sale of tract

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Residents of a mobile home park along the Raritan Bay have been handed a holiday present by the Appellate Division of Superior Court.

The court ruled yesterday that a lower-court judge improperly dismissed the residents' lawsuit challenging the right of the new owner of Paradise Park to redevelop it with high-end housing.

The decision, which is not expected to be appealed to the Supreme Court, will return the case to Superior Court in Freehold for a trial on the points in dispute.

"We see this now as an important win, but it is just one battle for our residents," said William Eaton, the residents' lawyer. "There are still many battles to go."

Developer James Bollerman bought the 53-home park overlooking Sandy Hook Bay in Highlands from longtime owner Donald Somers for \$2.4 million in March 2005. The residents own their individual mobile homes but rent the pads on which they sit.

The Paradise Park Homeowners Association claimed in its lawsuit that the state's Mobile Home Protection Act gave the association the right to match any price for the property before it could be sold to someone contemplating a change in use.

Somers and Bollerman argued that no change in use was contemplated at the time of the sale, and Superior Court Judge Alexander Lehrer dismissed the lawsuit.

In yesterday's unanimous decision, three appeals judges reversed the action by Lehrer, who has since retired. They concluded he had based the dismissal solely on the contract of sale, which made no reference to a change in use, but ignored evidence that the homeowners claimed showed an intent to redevelop the property.

The appeals court said that during negotiations for the sale, for example, "both Bollerman and Somers engaged in conduct which can fairly be characterized as lobbying to change the municipal zoning code to permit the development of the property for a use other than a mobile home park."

The judges also cited letters exchanged by lawyers for Somers and Bollerman before the sale was finalized, which the homeowners called the "smoking gun" proving an intent to change the use of the property.

In one letter from Bollerman's attorney, for example, the prospective new owner requested more time before the sale was completed "to investigate a number of state and federal regulatory issues affecting the future development of the property."

Somers' lawyer responded with a letter saying: "It was made abundantly clear from the outset that there

would be no conversation of planning and zoning, CAFRA or any other agencies that would need to be consulted to change the use of the property. I pointed out the statute that requires me to offer the property to the current residents if I offer it for sale in contemplation of a change of use. This letter is asking me to violate that statute."

CAFRA refers to the Coastal Area Facility Review Act.

Donald Lomurro, the attorney for Bollerman, said he does not plan to appeal the ruling to the Supreme Court.

"This decision just means we'll have a trial, which we expect to win," he said.

Somers' lawyer, Christopher Hanlon, said he was still reviewing the decision.

Loretta Dibble, the president of the homeowners association, said the association secured a \$2.8 million loan commitment to buy the property but was never given that opportunity.

"All we want to do is buy the land and secure our homes," said Dibble.

Reacting to yesterday's ruling, she said: "I'm very confident we've proved our case. We live to fight another day.

"You can say," she added, "we got a wonderful Christmas gift."

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