

Millville seeks legal fees from TrackRacket lawsuit

By JOEL LANDAU • Staff Writer • September 23, 2010

MILLVILLE -- The city is looking to recover more than \$14,000 in legal fees for defending itself against a suit over noise at the New Jersey Motorsports Park.

In a motion filed with the Gloucester County division of the Superior Court, the city claims TrackRacket's suit met the legal definition of "frivolous" because it clearly had no merit.

Attorney Katherine Morris, a partner with the Atlantic City firm Cooper, Levenson, April, Niedelman & Wagenheim, said she filed a motion against TrackRacket -- a local resident group that monitors and documents noise from the park -- on Sept. 10 to recover \$14,479.50 in legal fees and costs.

The city hired the firm to represent it in a lawsuit TrackRacket filed against the municipality and the New Jersey Motorsports Park last December regarding noise from the facility. The group said the park and city should have done more to quell noise from the facility.

New Jersey Superior Court Judge Annie McDonnell dismissed the claim against the city with prejudice on Aug. 26.

Racetracks are exempt from state noise ordinances, but Millville established a rule restricting noise from the park from exceeding 80 decibels for 20 continuous minutes.

In her August ruling, McDonnell ruled Millville is not obligated to enforce its city noise ordinances against the park because of the state exemption.

TrackRacket founder Michelle Post said she was disappointed the city filed the claim to recoup the money.

"It speaks volumes of their lack of compassion for residents who are just trying to protect their American Dream," she said.

Morris said TrackRacket's suit meets the legal definition of frivolous because it could not be sustained under the law. Morris noted the term

frivolous applies to the suit's legal merits and is not a judgment on the content of its claim about the severity of the noise from the park.

Under state law, a party can recover legal fees if it's considered frivolous, she said.

In her claim, Morris notes TrackRacket are "intelligent, media savvy individuals" who "acted in bad faith when they, with obvious intent, forced Millville to incur additional legal fees and costs knowing that the exact allegation they were pursuing concerning the alleged 'duty' of Millville to 'enforce the laws of New Jersey' was no duty at all."

Commissioners Joe Derella and Dale Finch declined to comment on the city's motion. The City Commission held a closed session meeting before the Sept. 7 meeting regarding the suit, according to the agenda. The meeting was not open to the public.

Though TrackRacket's lawsuit against the city was dismissed the group is moving forward with its three complaints against the park, Post said. The organization will host a Town Hall meeting tonight to address questions about the suit and dispel rumors that the lawsuit was thrown out, she said.

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A judge dismissed a lawsuit against the city by residents. (File photo)

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