

Intervenors to Appeal McLean Decision

The decision by the Land Court to uphold the rezoning of the McLean land presented the citizen intervenors with a thirty-day deadline to answer a difficult question: Should they proceed with an appeal? Their attorneys, McGregor & Associates, advised the intervenors that the court's decision provides numerous and significant legal reasons to mount an appeal. Although the judge upheld the rezoning, he acknowledged flaws in the agreement; one of the most serious being the possibility that the town could be denied all the promised benefits even as the rezoning went into effect.

Overall statistics on the results of appeals are not encouraging. On average, only one in five cases succeeds.

The board of the Belmont Citizens Forum reached an initial consensus that if the intervenors decided to proceed, it would support an appeal only if the money to fund it could be raised before the thirty-day deadline. The BCF board also agreed that no final decision would be made without first consulting past supporters of the effort to overturn the rezoning. The Belmont Citizens Forum then polled the more than 200 Belmont families who had paid the legal fees for the Land Court case.

Financial and emotional support exceeded all expectations. In less than two weeks, pledges surpassed \$25,000. Many contributors expressed a strong desire to see the legal effort proceed to a higher court. In addition, spurred by the release of third-party developers' plans for more than a million square feet of development, new supporters joined the effort. This has broadened the group of people who now support the fullest possible judicial review of the McLean agreement.

At a minimum, the case will proceed to the Massachusetts Court of Appeals. There is a chance, however, that the case will attract the immediate attention of the state's highest level of review, the Supreme Judicial Court. The appeal process is expected to take at least eight to twelve months.

--Jim Graves