

Judge: Stop construction at Stewart asphalt plant site

Monday

Posted May 23, 2016 at 7:02 PM

Updated May 23, 2016 at 8:26 PM

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Times Herald-Record

GOSHEN – A state Supreme Court judge has temporarily barred the Town of New Windsor from pursuing a long-term lease with Jointa Lime for its property at Stewart International Airport.

In her May 9 order, Justice Sandra Sciortino also directed Jointa to cease further construction at the asphalt plant's 8.9-acre site pending resolution of the underlying issues in the case.

The judge's action came in response to a lawsuit filed by Tilcon New York Inc. of West Nyack that claims New Windsor, its zoning board of appeals and its building inspector have violated multiple town and state laws.

The ZBA, for example, allegedly reversed itself from "yes" to "no" about whether Jointa required any variances at a meeting in April, ignored the necessity of a public hearing and failed to file any details of its decision.

The town building inspector also gave Jointa a building permit in March despite the planning board's ongoing environmental review and the absence of any site plan approval.

Tilcon pointed out the initial lease, which expired in April, was renewed on a month-to-month basis via email by the town attorney and construction proceeded.

“There is, unquestionably, something seriously amiss,” said Adam Schultz, Tilcon’s attorney, in his request for a temporary restraining order.

Schultz speculated that the arrangement between the town and Jointa either “started out as a series of innocent mistakes that over time have built upon one another to the point where the whole scheme looks nefarious” or the process was “nefarious from the beginning and the defendants have simply gotten sloppy with the paperwork.”

The town originally leased the property to Jointa in 2013 when the Wilton-based company won the contract to supply 350,000 tons of asphalt to rehabilitate the runways at Stewart.

The portable plant was supposed to be removed when the Port Authority project was completed, but Jointa exercised a one-year extension in the lease and then, in January, told the town it wanted to remain at the site permanently.

The town board initially waived the normal environmental review and approval processes because the plant would be on town property only temporarily, a decision that generated an unsuccessful lawsuit and sustained criticism.

When Jointa sought a long-term lease in January, however, New Windsor Supervisor George Green said the company was “well aware that if they want to continue to lease our property, they have to go to the planning board and do the whole nine yards.”

At its first meeting with the planning board in February, Jointa was referred to the ZBA for a decision on whether variances for non-conforming setbacks and heights were necessary.

Schultz contended that the town’s “wink and nod” approach to standard municipal procedures and processes rather than open public bidding and hearings gives an appearance of “fraud, corruption and favoritism” – and has given Jointa an unfair competitive advantage over Tilcon and other asphalt companies.

Geoff Thompson, a Tilcon spokesman, said new plants typically are subject to years of environmental review at a cost of hundreds of thousands of dollars.

As a result of sidestepping this expense, Thompson estimated Jointa has cost Tilcon between \$30 million and \$40 million in business.

Tilcon owns six asphalt plants in New York, including three in Orange County – in New Windsor, Maybrook and Goshen.