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Mediation efforts fail in dispute between East Lyme, developer

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Regional

East Lyme - Mediation between the town and Landmark Development Group has failed, meaning pretrial court proceedings have restarted in Landmark's federal civil rights lawsuit against East Lyme.

Landmark, a Middletown company headed by Glenn Russo, has accused East Lyme in federal court of deliberately blocking minorities from moving into town by denying Russo's applications for condominiums and affordable housing in the Oswegatchie Hills.

Russo filed the civil rights lawsuit in October 2003.

According to paperwork filed in U.S. District Court in New Haven, the two sides agreed during a 15-minute phone conference held Sept. 15 that mediation attempts had failed and a settlement was not possible. The sides had met three times for settlement talks since May.

Discovery in the case can now proceed, the judge ruled.

In March, the town agreed to enter into mediation upon a request to do so by trial judge Robert Chatigny. East Lyme had indicated in previous filings in the case that mediation would not prove fruitful, and it was difficult to determine what middle ground the two sides could reach.

Russo has proposed building as many as 1,700 units, while the town has contended that the pristine woodlands fronting the Niantic River should be preserved as open space.

Both sides declined to elaborate on the cause for the breakdown in mediation talks, saying they had agreed to keep that information confidential.

Attorney Christopher Rooney, representing Landmark, said the next step is for Chatigny to rule on pending motions in the case.

Chatigny was hearing arguments on the town's motion to dismiss the case when he suggested in March that the two sides try to settle.

Rooney said the court would probably try to put the case on a "faster track for trial" because of its age. Still, he said, it might be awhile.

"Optimistically, it's 18 months to two years from a trial," Rooney said by phone on Wednesday. "We have a lot of discovery; it's a complicated case."

The town filed an updated motion to dismiss the case last November after Landmark amended its original complaint to add allegations of secret meetings held by town employees and accusing the town of misrepresenting pertinent information and plotting against the Landmark proposals.

Landmark's original and amended complaints include two plaintiffs, Lisa Clemons and Susan Barlow, who are described as African-American women who want to move to East Lyme from Windsor and Hartford, respectively, along with their children.

The town's motion to dismiss says Clemons and Barlow cannot demonstrate they were denied the opportunity to move to East Lyme and enroll their children in its schools, or that they would qualify to live in Landmark's proposed development.

The motion also contends that Landmark does not prove it is entitled to hook into the town's sewer system, that there is no proof that any "behind the scenes" action influenced the Zoning Commission's decisions, and that federal courts should not substitute for state courts nor serve as zoning boards of appeals.