

Shades of lawsuits to come in the future for Durham/Clarington?

Sickness in the Soil

Broward Times

Friday, 10 August 2007

BY ELGIN JONES

FORT LAUDERDALE – Coral Gables attorney Reginald Clyne has notified Mayor Jim Naugle and Florida's chief financial officer that he intends to sue the city over toxic chemicals found in the Durrs neighborhood.

"I have put the city on notice that I represent some of the residents," Clyne told the Broward Times about the July 25 letter, which the city received on Aug. 1. Clyne copied the letter to Louise Caro, an environmental specialist and attorney with Legal Aid Service of Broward County, Inc. Legal Aid has been assisting Durrs residents in an effort to get more tests done and to have the entire area cleaned up. Now, Caro said, Legal Aid is partnering with Clyne in the proposed lawsuit against the city.

"We're working with Reggie. He did file a notice of intent to sue for a few people already, and we're going to be sending more," Caro said. "Legal Aid doesn't have the money to pay for the experts all by themselves. We need to join up. I think it's a good combination of skills and knowledge of the site and personalities. Reggie's a good guy. We'll make a good team."

State statutes require that public entities receive notice before lawsuits or other legal actions can be taken against them. Such notice is considered the precursor to a lawsuit.

The Fort Lauderdale city attorney's office would not respond to requests for comment.

"We have received the notice or demand letter," Naugle said on Thursday. "The city manager is preparing a report for the commission and we are looking for direction from the state on the challenges the neighborhood is facing."

Naugle said funding for a cleanup would be an issue for the city.

"We would have to identify a funding source," Naugle said. "The last clean up we had was funded by the responsible parties, for something that happened over 50 years ago."

Naugle also said the city would abide by any recommendations from the state, which right now is calling for additional testing.

"If the state thinks something needs to be done like buying property and relocating people, then there would have to be a funding source like the federal government, which was the biggest industry here when the incinerator operated," Naugle said.

The city operated a now closed garbage incinerator in the neighborhood, north of Sistrunk Boulevard and east of Interstate 95.

Today, state and federal health officials have found high levels of toxic chemicals, including arsenic, lead and dioxin, on the site. But no study has ever conclusively linked the toxins with the incinerator. Clyne, however, blames the incinerator for the toxins in the neighborhood.

He stated in his letter that he intends to sue the city on behalf of residents Walter "Mickey" Hinton, who is president of the Durrs Homeowners Association; Hope Sheppard; Frank Sheppard; Gloria Royster; Timothy Knox; Jermaine Strickland and other residents of the Durrs neighborhood.

"Due to the City of Fort Lauderdale's use of the Lincoln Park Complex as an incinerator site, landfill, and wastewater treatment plant, and waste separation and transfer site, the above named individuals as well as other residents of the Durrs neighborhood, their families, guests and neighbors have had to endure continued exposure to excessive levels of toxins emitted and discharged from the property," Clyne wrote in the letter, addressed to Naugle and Alex Sink, Florida's chief financial officer.

"As a result of continuous exposure to the toxins and hazardous substances, the above named individuals...have been inflicted with various medical problems and expenses," Clyne continued in the letter. "In addition, due to the City's actions, these individuals have suffered impaired and decreased property values as a result of contamination on their properties."

Clyne went on to say in his letter, "The City was aware of the existence of toxins in the soil but took no steps to correct the problem or notify the individuals exposed to the contamination. Other residents, property owners, and visitors of the Durrs neighborhood have suffered the same or similar injuries and intend to assert their claims in the immediate future."

Toxic chemicals in the Durrs neighborhood were also the subject of a meeting called this week by state Rep. Perry Thurston, D-Plantation, to address the issues.

Dozens of people living in the Durrs community of Fort Lauderdale attended the Aug. 7 meeting to discuss toxic chemicals found in the neighborhood's soil.

Thurston also invited officials from the Florida Department of Health, the Florida Department of Environmental Protection and the city of Fort Lauderdale.

The residents came to get answers about the shocking results of a study that were published in a March 2007 report that said the neighborhood is replete with disease-causing toxins.

"After learning of the problem, I wanted to give the people the opportunity to ask the tough questions and see if those who compiled the report had any explanations," Thurston said.

During the meeting, one state health official wiped away tears as residents detailed health problems, sometimes afflicting entire families.

The U.S. Department of Health & Human Services, the Florida Department of Environmental Protection and the Florida Department of Health conducted the study, which included soil, air and ground water samplings.

It found higher than normal levels of cancer-causing substances, including lead, arsenic and dioxin in the soil and, in some cases, even at surface level.

Health officials have warned residents not to eat certain vegetables grown in gardens, and to thoroughly wash other vegetables.

The agencies also advised residents to dust themselves off before entering their houses, walking on swales or otherwise coming into contact with soil. They have also warned residents not to breathe in dust from the area.

A city representative and health officials at the meeting acknowledged they had not settled on any concrete solutions to address the problems, something residents said they had heard before.

"I want to apologize," Craig C. Clevenger, a city environmental consultant, told the residents. "I don't have an answer to your questions."

None of the city commissioners attended the meeting, but Clevenger and Public Works Director Albert Carbon said at the meeting that the city is drafting an action plan to either contain the contaminants or remove them altogether.

They said they would post the plan on the city's website.

"The city is talking about a corrective action. They have not shown us a corrective action. They have not shown us anything. They have not even bothered to call a meeting," said Leola McCoy, an authority on environmental issues. "If it had not been for the Broward Times, we probably would still be in the dark." McCoy was referring to an April 27 story in the newspaper that first brought the seriousness of the Durrs contamination to light, based on the health agencies' report.

The report said it is likely that ash from the garbage incinerator was used as fill for the foundations of homes constructed throughout the area.

Residents believe that may be the reason for such high concentrations of toxins in some locations, such as the site of a former elementary school there.

Lincoln Park Elementary School operated there for years, but was shut down in the late 1980s out of concern for high contamination levels. The site now houses the city's building and permitting operations.

"These folks at the table; shame on you," McCoy said. "Go back into your archives and find out how the city disposed of their ash piles."

Caro, of the Legal Aid Service, said at the meeting, "We have the school board minutes from, I believe the late 1960s that literally called this elementary school the 'ash school site,' so clearly it was a school and ash was there."

Hinton said at the meeting, "I'm tired now. I'm tired and I'm getting old. But I won't give up. I look good but I'm sick as the devil, my wife is sick and my two daughters are sick too."

Kerline Jeanmary asked about not being able to allow her kids outside to play, or how anyone can realistically avoid coming into contact with soil or breathing dust.

Jane Gray-Williams wondered about the dangers associated with the tires, cans and other trash she and her husband have found buried in their yards. Their questions elicited apologies from the officials, but the panelists acknowledged they could not provide any definitive answers.

"The city commissioners, the mayor and what have you, have done an excellent job...on messing up my neighborhood," Hinton said. "This is one thing I've learned, is that you can't trust the city of Fort Lauderdale."