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## Crestwood subdivision work starts despite pending lawsuit

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Several weeks ago, Jennifer Milton-Houlton was surprised to see large trucks moving dirt on a property near her Crestwood home. After a while, she began to hear blasting.

The construction work is on property near Clore Lane where a 345-home subdivision called Brentwood is planned, but Milton-Houlton said the work is premature.

The development is the subject of a lawsuit filed in Oldham Circuit Court in which 13 Crestwood residents argue that the subdivision was never properly approved and should not be built. The developer and the planning commission argue otherwise.

The residents sued the Oldham Planning and Zoning Commission in August 2008. The lawsuit also names the Louisville-based development company Oldham Farms.

Milton-Houlton said the construction began around Nov. 5.

"It's a brazen display of lack of regard for the judicial process and neighboring residents," said Michael Tigue, the attorney representing the residents. "It's still right in the middle of the process."

He said that if a judge rules in favor of the residents, he or she would then have to decide whether the property should be returned to its original state.

While the residents could ask for a temporary injunction order to stop the construction, Tigue said that would be expensive.

Deborah Bilitski, the attorney for Oldham Farms, said the subdivision was properly approved because it met all the regulations, "and there's nothing to prohibit them from commencing the development of the subdivision."

She declined to comment further.

Planning commission attorney Stuart Ulferts said the commission believes the developer is free to proceed.

"It's not really my business what they do," Ulferts said. But he said the construction could be another issue the judge would have to consider.

The lawsuit filed last year claims the planning commission approved the subdivision during an illegal special meeting, and that commissioners voted to approve the plan to avoid being sued by the developer, Oldham Farms.

The commission had previously denied Brentwood four times. In July 2008, Oldham Farms sued the commission, saying the proposal complied with zoning and subdivision regulations.

The commission held a special meeting to discuss the lawsuit, and in open session nine of the 10 members voted to ask a Circuit Court judge to overrule the commission's most recent denial, which was in June 2008.

Judge Karen Conrad and planning commission Chairman Kevin Jeffries signed off on the decision.

The residents' lawsuit says the commission held the meeting without proper legal notice, and it asks that a judge declare the commission's original denial correct and deny permission to build Brentwood.

Ulferts said the meeting was legal and the commission followed the rules for giving notice of special meetings. He said the commission was not required to give notice to adjacent landowners or to have another public hearing.

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