

Northville Downs slaps Plymouth Township with lawsuit over denial of new racetrack

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Hometownlife.com

Mayor and Council –

Thought some recent news articles (x2) from our “neighbors” may be of interest.

- Victor

PLYMOUTH TWP. — Northville Downs has filed a lawsuit alleging the township made **illegal demands** that “amounted to extortion” of millions of dollars in exchange for approval of its proposed harness racing facility.

The complaint, filed Feb. 27 in U.S. District Court, asks the court to grant more than \$10 million in damages to Northville Downs and to allow plans for the proposed racetrack at Five Mile and Ridge roads to proceed.

The suit comes on the heels of the township’s Jan. 24 decision to end negotiations with Northville Downs after demands for a community benefit agreement reached an impasse.

“This is a case of a municipality trying to shake down a business, a property owner, for extra money,” said attorney Mike Cox, who is representing Northville Downs and its owners John Carlo and Mike Carlo. “The supervisor wanted Northville Downs to basically buy regulatory approval, which is not legal in America.”

Plymouth Township Supervisor Kurt Heise called the lawsuit an “interesting piece of political fiction.”

“This is basically sour grapes by the Carlo brothers who clearly never had the money to deliver on the promises they made to Plymouth Township for a \$25 million horse racing facility, promises of a community benefit agreement, which they did agree to, and promises of revenue sharing.”

\$10 million purchase

The complaint details the process back to 2020, when Heise and Plymouth Township Economic Director Gary Heitman, according to the lawsuit, met the Carlos for dinner and drinks, hoping to convince the brothers to build a new facility in Plymouth Township after the property Northville Downs occupied for 80 years in Northville was sold to Hunter Pasteur Homes.

The Carlos looked at one property but determined it was not a good option for the project, then were enticed by Heise and Heitman to come back to Plymouth Township when the 128-acre parcel at the southwest corner of Five Mile and Ridge roads became available in September 2022.

The lawsuit states that Heise told the Carlo brothers that both the planning commission and board of trustees, with the exception of Trustee Chuck Curmi, would ‘absolutely’ vote as Heise directed regarding any necessary approval to relocate the Northville Downs track operation to the township.

“These statements by Heise and Heitman...were attractive to Northville Downs’s owners because expedited regulatory approval meant a smoother, more seamless relocation from racing in the City of Northville to racing in the township, with little or no business disruption or interruption,” the lawsuit says.

Northville Downs purchased the property for \$10 million, with a \$5.1 million cash down payment and financing on the remaining \$4.8 million, which “essentially tied Northville Downs to the township and the vicissitudes of its regulatory process.”

Demands for money and amenities

During the process, discussions were held over ways the project could benefit the community.

Under Michigan’s Horse Racing Law of 1995, the township would be entitled to “breakage,” essentially a rounding up of a bettor’s winnings that a horse-racing facility pays to its host municipality for police, fire, traffic, and other protections.

The City of Northville collected approximately \$200,000 per year in breakage fees.

But the township also made additional demands, including “extravagant, unlawful, and unconstitutional” demands for \$5 million in cash, Fourth of July drone shows, soccer fields, pickleball courts, a walking trail and annual community events.

Such demands, often called community benefit agreements, are not made of other businesses who wish to locate in Plymouth Township and are not authorized under township ordinance nor the Michigan Zoning Enabling Act (MZEA), the lawsuit claims.

The lawsuit put the costs for the Carlo brothers for the additional amenities at \$100,000 for the Fourth of July drone show, \$100,000 for pickleball courts, \$250,000 for the youth soccer fields, and \$400,000 in one-time expense for the 1.2-mile walking trail with \$50,000 a year in upkeep costs.

Under the Michigan Horse Racing Law of 1995, a municipality that hosts a horse-racing track may “not assess or collect an excise or license tax or fee from a person licensed under this act based upon an activity performed under this act” other than the breakage fees.

Plans for the proposed facility passed quickly through the first phases of the approval process with the votes Heise had predicted, according to the lawsuit, but stalled after a June meeting where the planning commission voted unanimously to approve a revised version of the Northville Downs plan, with the stipulation that the contract include an provision for an approved community benefits agreement.

The condition, the lawsuit says, violates the MZEA, the Michigan Constitution, and the United States Constitution.

Disagreements continue

Heise told Hometown Life he is standing behind his demand for a community benefit agreement, noting the planning commission and the board of trustees voted in favor of requiring the document, and said he would do the same thing again.

He disputed the dollar figures outlined in the lawsuit, saying the township never asked for \$5 million, despite emails in the lawsuit that show the request.

“It was \$3 million, of which most of that money was simply a guarantee that we would get a minimum breakage fees of \$250,000 a year in the final eight years of the agreement,” he said. “And that money would've gone to recreation and public safety because we all recognized that this was going to be a controversial project. We understood that this was going to raise a lot of concern in the community, so wanted to make sure that we got a community benefits agreement that provided the best deal possible for the people of Plymouth Township.”

Heise said he doesn't believe Northville Downs still wants to build the planned facility in Plymouth Township.

“I know the Carlo brothers have already secured the services of a Realtor,” he said. “I know that they are actively trying to sell the property. I've been told that they may have already secured a property somewhere in Ingham County.”

"(Northville Downs) efforts to find a suitable replacement have been significantly hampered by the fact that it paid \$5,100,000 in cash for a down payment on land in the Township that Township officials had induced it to purchase, and that significant cash outlay has made alternative solutions, even temporary ones, difficult or impossible to find," according to the lawsuit.

Cox, on the other hand, said the Carlo brothers would still like to build the proposed facility in Plymouth Township.

“It's a perfect spot,” he said. “Their landlord sold the property out from underneath them in the city of Northville, so they had to move after 80 years. They thought this was the spot for the next 80 years.”

The Carlo brothers are asking the judge to rule that the townships denial of approval for the development is unconstitutional and order that the development agreement be approved without the community benefits agreement. They are also seeking in excess

of \$10 million in damages, as well as compensation for “the Township’s taking of NVD’s property” and attorney fees and costs.

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