

Vorys Team Prevails on Behalf of Developer in Civil Rights Action

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In a case brought before the U.S. District Court in the Southern District of Ohio, Judge Algenon Marbley agreed with Wedgewood Limited Partnership (Wedgewood), when he issued a ruling saying that Wedgewood's federal civil rights were violated by Liberty Township.

The ruling came during a protracted four-year battle in state and federal courts over the township's efforts to stop construction of a Wal-Mart on a 34-acre site in Delaware County. The site was part of a planned unit development, and had been zoned for 220,000 square feet of commercial use since 1991.

After Wedgewood filed an application in 2003 to build the Wal-Mart store, township trustees passed new regulations limiting the square footage of permissible development on the site, which zoned out the large Wal-Mart store, and gave the township veto power over any further development on the site.

Wedgewood's Vorys legal team filed a federal civil rights action, arguing that the new regulations denied the developer due process and were unconstitutional. After extensive discovery and numerous pre-trial motions, the court agreed, striking down the new regulations and restoring the 1991 development plan.

"The court's decision vindicates a developer's right to rely on the zoning in place, which can only be altered by compliance with procedures mandated by Ohio law," said Bruce Ingram, a partner at Vorys and attorney for Wedgewood. "It's a shame that Liberty Township's actions not only infringed our client's civil rights, but also open its taxpayers to footing the bill for that infringement."

The deal to bring a Wal-Mart to this location is dead as earlier in the year Wal-Mart chose not to renew its contract to purchase the site for more than \$5.2 million. Wedgewood will be entitled to compensatory damages, and Ingram says they anticipate asking for attorneys fees.