

County

Top state court to rule on Prairie Parkway case

by Susan O'Neill

The Illinois Supreme Court on Wednesday heard arguments regarding a lawsuit filed on behalf of 56 landowners within the Prairie Parkway corridor.

The lawsuit, initially filed in Kendall County in September of 2002, challenges the state's right to record the corridor under Illinois' corridor protection statute, calling the action unconstitutional.

The Illinois Department of Transportation (IDOT), in July of 2002, designated a 400-foot wide corridor stretching 35 miles from Interstate 80 near Minooka to Interstate 88 east of Kaneville for possible construction of the proposed Prairie Parkway. The corridor, which passes through Kane, Kendall and Grundy counties, encompasses 193 separate land parcels.

Under the state's corridor protection statute, the affected property owners must seek IDOT's approval before making any improvements to their property. If IDOT were to deny the landowner permission to make the improvements, the state would have to purchase the property through negotiations or eminent domain.

"The state is placing restrictions on people's property indefinitely without paying them for the privilege and without following the protections guaranteed in both the state and federal constitutions," said Tim Dwyer, the St. Charles attorney representing the landowners.

"The only purpose for the siting of the corridor is to depress land values based on the possibility of a roadway. They (IDOT) don't even know if the roadway is going to happen. You can't have a few hundred people pay the price for everyone else."

The law of eminent domain states that the government must have a public purpose to target an individual's property, explained Dwyer. He said that because IDOT is still in the rudimentary planning stages of the Prairie Parkway project, the siting is not based on a proven public purpose.

"The trigger for the taking (of some-

one's property) is the landowner's improvements, not the road being built," he concluded.

Kendall County Circuit Judge Leonard Wojtecki dismissed the case when it was originally filed in 2002. The Appellate Court later addressed the merits of the case but ruled that it was not unconstitutional.

"When you label a corridor, you have taken away from the owner any chance to make any changes to their land," said Marvel Davis, a property owner included in the suit. Davis owns a large tract of land in unincorporated Kane County outside of Big Rock through which the recorded corridor would pass.

"People have not wanted to seek improvements, because they haven't wanted to lose their land," explained Jan Strasma, head of the grassroots organization opposing the Prairie Parkway.

Strasma said that the landowners have been affected without any control or recourse for an indefinite period of time.

In the case, the landowners contend that the state has placed a "cloud" over their property indefinitely by restricting their rights to make improvements. Additionally, IDOT has superseded all local government land use regulation, Strasma said.

Illinois State Sen. Chris Lauzen said he also believes the state statute is unconstitutional. He has been attempting for the last several years to introduce revised legislation that would require the state to establish a need prior to encumbering one's property.

"There's a proper, a constitutional, way of going about building roads," he said.

"The Bill of Rights includes life, liberty and the pursuit of happiness," he said. "That was understood at the time to mean the protection of personal property. I don't understand how a government can come and take your property away without establishing a need."

"We're confident that the Supreme Court will rule in our favor," said a spokesman for IDOT Deputy Chief Counsel Richard Christopher.