

HUNTERDON REVIEW

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Readington files condemnation suit against airport

By LINDA SADLOUSKOS Staff Writer

Thor Solberg predicts costly, protracted legal battle

READINGTON TWP. – With Mayor Gerard Shamey proclaiming the Solbergs “left us with no choice on how to proceed,” the township has filed court proceedings to condemn Solberg Airport.

The lawsuit filed Friday, Sept. 15, in state Superior Court, Hunterdon division, seeks to limit expansion of the airport in perpetuity, and to take outright ownership of 625 acres of surrounding open space.

Thor Solberg Jr., one of the three Solberg siblings, said in response on Monday that he was “disappointed but not surprised that the town has chosen to abruptly abandon negotiation and begin condemnation which will turn into a protracted legal battle that will take years to resolve and cost the taxpayers substantial dollars.”

The legal action is scheduled to be answered in court in Somerville on Friday, Oct. 20, at which time Judge Yolanda Ciccone will hear arguments and potentially issue a ruling on whether eminent domain proceedings can continue, said James Rhatican, an attorney representing Readington Township.

“We are asking the court to find the township has the legal authority and ability to condemn the airport,” Rhatican said on Monday.

An experienced attorney in condemnation proceedings, Rhatican said the process could definitely be completed in less than a year.

Solberg said the family would wage a legal battle against the township’s legal action to proceed with eminent domain against an airport that was founded by his father, a famous aviation pioneer, in 1939.

As the issue of controlling the airport’s future has simmered both on the front and back burners of township business for the several years, the Solbergs and other critics of the Township Committee have maintained that township officials have been heading down a path towards condemnation all along, and that the cost to the taxpayers would be very high.

The Township Committee’s actions were decided in a closed session just days after the Solbergs responded on Friday, Sept. 8, to the township’s official offer of just more than \$21.7 million. The offer was to buy the development rights to the airport and the surrounding open space to limit expansion at the 101-acre airport and discourage additional jet traffic. The proposal would leave the Solbergs as owners of an airport on which deed restrictions had been placed to limit the size of the airstrip and related warehouses.

The Solberg response to that offer was a letter stating that the Solbergs were prepared to negotiate with the township a purchase of the Solberg property and development rights as long as the town was willing to entertain “a reasonable modernization plan for the airport.”

Township officials characterized that response as evasive, with no specific counter on price or runway length. Shamey again said on Monday that the Solbergs are still able to “give us a proposal, but that hasn’t happened.”

But the potential cost of eminent domain proceedings have already sparked some resident opposition.

“Readington Township’s eminent domain action is an imminent disaster for anyone hoping to stop the excessive drain of taxpayer dollars being spent on this acquisition,” said resident Kevin Devine, whose group, Taxpayers’ Alliance of Readington, had filed a lawsuit about three weeks ago to limit the township’s purchase price for the airport rights or property at \$22 million, the figure listed on a special ballot question approved at a special election on May 16.

Residents voted on that special ballot with the understanding that the township’s cost for investing in the airport would be limited to \$22 million, Devine said. On Monday, he added the township had not responded to his group’s lawsuit, which also calls for the court to prohibit an airport condemnation.

But supporters of the township’s actions have blamed the owners of Solberg Aviation for failing to be open in revealing long-range plans for the airport, and for being unwilling to negotiate a solution.

Eric Zwerling, a township resident who has steadfastly supported the Township Committee’s actions to limit airport expansion, said on Monday, “It’s unfortunate that there could not be a negotiated solution. However, it’s very clear that the Solbergs and their partners would settle for nothing less than an expansion into a jetport that would significantly diminish the quality of life in Readington.”

Residents In Limbo

Mayor Shamey said in a statement issued last Friday, Sept. 22, “For 30 years, township residents have been in limbo while the owners of Solberg Airport have threatened the open space and natural resources surrounding the airport by taking steps needed to expand its runways.”

“As time passes, the fate of Readington’s long-stated preservation priorities remains in doubt, while the airport readies itself to accept jet traffic,” the mayor’s statement continued.

“It is our hope and belief that this course of action will lead to a relatively swift and final resolution. We should emphasize that this decision allows the Solbergs to retain ownership and control of their airport without modifying its use or configuration (as it currently exists), while preserving open space and natural resources,” Shamey’s statement concluded.

Zwerling noted that in negotiations with the township that broke down last January, the Solberg Aviation owners had asked for the airport runway to be approved for expansion to 5,000 feet, instead of the current approved length of 3,735 feet. Experts for the township have testified that length would easily accommodate large jets.

The Solbergs have maintained that they have no plans in the foreseeable future to expand the airport, other than to make safety improvements and pave the runway to its current approved length of just more than 3,700 feet. The family has indicated a desire to hold onto ownership of its open space, which has been preserved as an airport buffer, and to only sell development rights limiting future expansion at the core air facility.

“As I have maintained all along, we want to engage in good faith negotiation with the assistance of a third party mediator and/or facilitator,” Thor Solberg said in a statement on Monday. “Unfortunately, the fact that the township has continually rebuffed this request can only mean that they have always favored unilateral action over genuine compromise and negotiation,” he said.

Township Committee members have been somewhat on and off in their willingness to bring a mediator into the negotiating process, finally asking that a mediator only be used on a limited basis.

The Solberg’s letter in answer to the August offer for their property said the owners were “of course available for further negotiations if you think they would be fruitful.”

Appointing A Commission

Rhatican said the procedure for condemnation is that the judge would appoint a commission of attorneys and real estate experts to set a value on the property.

As part of a previous deal in which the state would have purchased the airport about four years ago for a similar amount to what the township is now offering, the Solbergs obtained their own appraisals on their land and facility. The Solbergs have said that figure was set at about \$40 million. That deal was eventually abandoned.

Either the township or Solberg owners could appeal the commission's decision if unhappy, Rhatican said. The township could also choose to drop its proceedings, unless the municipality had actually filed a declaration of taking to seek the deed to the property, Rhatican explained. That filing has not taken place at this time, he said on Monday.

If the township does succeed, the Solbergs would be free to sell the airport in the future with deed restrictions, he said.

The lawsuit states that the township has "duly determined that the lands, premises and property rights that are the subject of this condemnation action are reasonably necessary for public use and purposes including, without limitation, open space and farmland preservation, land for recreational uses, conservation of natural resources, wetlands protection, water quality protection, preservation of critical wildlife habitat, historic preservation and preservation of community character."

Zwerling said township residents had shown their support of that concept in the May 16 special election, and two other elections returning incumbent Township Committee members.

But another critic of the Township Committee, resident Donald Baldwin, stressed township officials had said they would only move to condemnation as a "last resort" and said he believes many residents had voted to support the \$22 million bond ordinance as a backing for further negotiations, not condemnation.

"Many of us who have tried to keep an eye on this issue knew this was the Readington Township Committee plan all along, in spite of public denials," Baldwin said in an e-mail. "In August of last year, Gerry Shamey assured myself and a couple dozen others at a public meeting that the only transaction they were contemplating was willing buyer/willing seller."

Baldwin added, "I think we are in for a long expensive haul in the courts unfortunately."

Devine also said the Township Committee's action "has unilaterally committed Readington residents to upwards of millions of dollars in acquisition and legal fees." However, if his group's lawsuit is successful and the township's expenditures on the Solberg acquisition are capped at \$22 million, the township could be prevented from moving forward with condemnation if costs look like they are going to exceed that amount, Devine said.

The township's court filing also named John Hromoho, who holds an interest in the airport, and other potential lien holders in the property. The lawsuit also asks that the current owners perform any necessary environmental clean-ups on the open space if the township does eventually take ownership.