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## **Hyde Parkers Appeal Dismissal of McMobil Lawsuit**

### **Residents Seek to Block Massive 53<sup>rd</sup> Street High Rise**

**CHICAGO, August 13, 2013** — A group of Hyde Park residents suing to prevent a massive high rise from being built at the so-called McMobil site on East 53<sup>rd</sup> Street has filed an appeal following the dismissal of their lawsuit on a technicality.

The suit, filed with the Circuit Court of Cook County, Ill., alleged that the city acted in an “arbitrary and capricious” manner in rezoning the site last year to allow for the construction of a 13-story high-rise building there. The group hoped to have the zoning of the site restored to its original classification, which would prevent the high rise from being built as planned.

However, last January, Judge Kathleen M. Pantle granted a motion by lawyers for the University of Chicago, which owns the property, dismissing the case on the grounds that the plaintiffs failed to inform some of the neighborhood property owners they were required notify about the suit. The plaintiffs are appealing, saying they made a good-faith effort to make all the required notifications and that the suit should go forward on its merits. Illinois law recognizes the “doctrine of substantial compliance” with a statute, and on the basis of that the plaintiffs believe they have a strong legal case for reinstating the suit.

“The company we hired to send notices notified 125 property owners and inadvertently missed seven,” said Michael Scott, one of the plaintiffs. “There is no precedent in case law for the dismissal of a zoning suit by a party making a good-faith effort to give notice, and this matter is far too important to Hyde Park for it to be dismissed on a technicality.”

The site has been at the center of a neighborhood battle since early 2013, when the university and its development partner, Mesa Development LLP, announced plans for a mammoth 155-foot structure on a section of the street surrounded by buildings of one-to-three stories. Local residents opposed the plan, claiming that the building would be grossly out of scale with its surroundings and would have an adverse effect on the area. They cited traffic and parking problems it would cause as well as the visual blight the building would cause to the low-rise pedestrian street.

Until the spring of 2013 the property, most of which had been occupied for years by a Mobil service station, was zoned for low-rise business use. It had to be rezoned twice in order to make way for the proposed high-rise. Despite strong neighborhood opposition, the university, the developer and Ald. Will Burns (4<sup>th</sup>) pressed ahead with the rezoning effort, which passed the Chicago City Council last year. The service station has been demolished, but construction of the high-rise has not yet begun.

In their legal complaint, the residents charge that the simultaneous two-step rezoning process the City Council approved was illegal because of its magnitude, which exceeded guidelines established in legal precedent that protect communities from sudden and extreme changes in zoning and land use.

“This is the wrong building in the wrong place,” said Scott. “We need a plan for a smaller development on the site, one that makes sense both for the university and the neighborhood. Once our lawsuit is reinstated and moves forward we can finally have a conversation about that.”

The appeal was filed on July 17. The defendants have 35 days to file a response brief and the plaintiffs then have 14 days to reply, after which the court takes the case under advisement, a process which may take several months.

The plaintiffs are working closely with Citizens for Appropriate Retail and Residential Development (CARRD), a Hyde Park organization that favors real-estate development in keeping with the current and historical character of the neighborhood and which also opposes the McMobil plan. CARRD is accepting donations to help defray the plaintiffs’ legal expenses. Those interested in donating can go to <http://save53rdstreet.org/>. CARRD can also be reached at [53carrd@gmail.com](mailto:53carrd@gmail.com) or 773-609-9406.

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