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Federal Judge Remands HOMES Case Back to State Court

HOMES Scores a Third Major Legal Victory by Having Lawsuit Returned to State Court

Rockford, IL – On Tuesday, April 28, 2009, Judge Philip G. Reinhard, United States District Court, Northern District of Illinois, remanded the case of HOMES vs. A.J. Bos back to the state court in Jo Daviess County, Illinois.

This move is the third major legal defeat suffered by millionaire California investor A.J. Bos in his attempt to build an industrial-scale dairy in Jo Daviess County. The final court case was originally set to start in Jo Daviess County in May, but on February 26, 2009, lawyers for the investor petitioned the federal court in Rockford for a change of venue because they were unhappy with their losses in state court.

Their petition relied on the right of a defendant living in a different state from the plaintiffs to ask their case to be heard in a federal court, subject to the laws of the state of Illinois. Once the State Judge, Kevin Ward, dismissed the Illinois Department of Agriculture (IDOA) from the case, lawyers for the investor believed they could easily move the case to federal court.

However, since the IDOA was removed involuntarily, federal judge Reinhard, citing case law, agreed with HOMES' attorneys David Albee, Charles Cronauer, and others, that this case should not have been transferred to federal court. Therefore, he remanded it back to the state court in Jo Daviess County.

“Because the citizens and small family farms of Jo Daviess County are the ones who will suffer from the environmental pollution created by this industrial agricultural facility, we believe it’s appropriate that the court case ultimately be decided in our own district court here in Jo Daviess County,” said HOMES spokesperson Matthew Alschuler. “We’re very pleased with the federal judge’s decision.”

Now that the case is back in state court, the timetable for discovery, depositions, and court dates all need to be set again, so no further court dates are known at this time.

HOMES (Helping Others Maintain Environmental Standards) is an Illinois non-profit, pro-agriculture group of farmers and citizens dedicated to protecting family farms, rural communities, human health, and the environment by promoting sustainable agriculture and conserving our natural resources.