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Quash 'em

By LORRAINE SWANSON

Editor

Subpoenas targeting Uptown bloggers and anonymous commentators continue to linger even after a resident group's lawsuit to block the embattled Wilson Yard development was dismissed by a judge in May.

Works continues at a fast clip on the Wilson Yard development, that will include 200,000 square feet of retail space and affordable housing for families and seniors. (PHOTO/TOM MANNIS)

Attorneys representing the six venture companies of the project's sole developer, Holsten Real Estate Development, subpoenaed Google in January, asking for account holders' information for two neighborhood blogs, Uptown Update and the defunct What the Helen.

The subpoenas were in response to a lawsuit filed last December by the Uptown community group Fix Wilson Yard against the developer and city. The residents' lawsuit charged that significant abuses took place in the planning and funding of the Wilson Yard TIF District and corresponded Wilson Yard development. The lawsuit was tossed May 19 by Cook County Judge Mary Katherine Rochford, on the grounds that residents waited too long to file it.

Uptown Update is an active blog that has gained popularity as an information clearinghouse for the Uptown neighborhood. What the Helen was active during the 2007 aldermanic race, but has not been updated since then. Both blogs and their anonymous commentators have been highly critical of 46th Ward Helen Shiller and developer Peter Holsten for their handling of the Wilson Yard development.

Two other Uptown community groups, Buena Park Neighbors and the Uptown Neighborhood Council, were also subpoenaed for documents identifying residents who posted comments anonymously on both organizations' web sites, inluding the online activities of the six Uptown residents named as plaintiffs in the lawsuit.

The subpoenas have caught the attention of the Electronic Frontier Foundation, a San Francisco-based, civil liberties group that defends the First Amendment rights of those who use the Internet and other digital media to exercise their freedom of speech. The EFF is pressing ahead with a motion to quash the subpoenas now that the lawsuit has been dismissed. A court hearing is set for July 9.

"Enough is enough," Matt Zimmerman said, an attorney with the EFF. "We agreed to wait very patiently for these things to come to pass, but the subpoenas are still hanging out there. It's not an insignificant thing to have a subpoena hanging over your head if the court is forcing you to turn over personal information or forcing Google to turn over information to identify you."

As a condition of using Google's hosting service Blogger.com, bloggers must agree to Google's privacy policies, including disclosing personal information and the content of communications when subpoenaed as third parties through Google. Unless third parties notify Google that they plan to quash subpoenas, Google is required to turn over the information that is being sought by legal and government authorities.

The EFF is representing the bloggers and Buena Park Neighbors pro bono, none of which are affiliated with Fix Wilson Yard or involved in its lawsuit.

Zimmerman called the subpoenas overreaching in that they identify targets solely based on the content of their protected speech. The EFF has secured extensions on the subpoenas six times within the past five months.

"The bottom line is that it's not up to third parties to bear the cost of litigation or in no way be inconvenienced by disputes involving other people," Zimmerman said. "The subpoenas shouldn't have been sent in the first place."

Holsten's attorney, Tom Johnson, maintains that subpoenas were aimed at statements allegedly made by plaintiffs under anonymous blog identities to establish that they had waited beyond a five-year statute within which residents can file lawsuits challenging TIF projects.

"We were seeking statements from the plaintiffs that were inconsistent with statements they had made in court," Johnson said.

The subpoenas will remain active until it is determined whether Fix Wilson Yard intends to file an amended complaint.

"I told Mr. Zimmerman to wait to see if the plaintiffs file an amended complaint and what is said," Johnson said. "Until then, we don't know how the subpoenas will be related."

Molly Phelan, president of Fix Wilson Yard, said the fight is long from over and that her group plans to file an amended complaint to block the Wilson Yard development. The group has asked the judge for an extension until July 10.

Zimmerman called the subpoenas' effect on the community chilling. "If outside observers think they will be subpoenaed for speaking their minds they will self censor, and that's not a good thing," he said.

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Tags: Ald. Helen Shiller, Buena Park Neighbors, Electronic Frontier Foundation, Fix Wilson Yard, Holsten Real Estate Development, Uptown Neighborhood Council, Uptown Update, Wilson Yard

5 Responses to "Quash 'em"

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1. Given Ald. Shiller's history of retaliation, there is every reason to be fearful. When I ran for alderman in 2007, my campaign staff personally experienced it. Businesses were also fearful of contributing to my campaign for this very same reason. I later learned the same occurred with other people who ran against Ald. Shiller in previous elections.

   The problem is exacerbated because the City Inspector General is not allowed to investigate members of City Council for illicit conduct. Not so coincidentally, Ald. Shiller is one of the more vocal members of City Council who is in agreement about limiting the powers of the City Inspector General.

   Comment by James Cappleman on June 25, 2009 at 7:52 AM

2. What????
   Saint Helen retailiate against her constituents?
   Saint Helen operate like a longtime Democratic Ward Boss Hogg??
   Hippy- Dippy-Chick, Free-Love, Product-of-the-60's, holier-than-thou Shiller operates like the President of Iran?
   Tell us what we don't already know.

   Comment by Uptown Gal on June 25, 2009 at 11:57 AM

3. "If outside observers think they will be subpoenaed for speaking their minds they will self censor, and that's not a good thing"

   It' is also highly unConstitutional, is it not?

   Helen Shiller will protect the rights of everyone … she likes.

   Everyone else can go to hell, apparently.

   Helen doesn't give a shit about anything other than herself, why should she give a shit about the First Amendment?

   How long does any think it will be before she realizes that she has become the spitting image of the George Bush she hated so vehemently for just this sort of thing?

   Comment by Pete on June 25, 2009 at 6:45 PM

4. Helen Schiller's main goal is to consolidate the poor as a voting block.

   Consquently, she's fought every move to make the area livable for anybody not on public assistance.

   Comment by Glad I don't live there on June 27, 2009 at 12:44 PM

5. The problem with consolidating the poor into a geographic voting block is that it uses the poor in a way that operates against their best interests rather than helping them. Studies have shown that the poor stay poor when they don't assimilate into the broader community because there are relatively few opportunities for them to advance in a ghetto of similarly poor persons. Who can hire them when their neighbors themselves have no jobs and no money?

   Activists can organize the poor and advance the need for social services for the poor without physically herding them into ghettos. After all, this is the computer age. Yet, activists, like Shiller are stuck in the 60's mentality, which requires busing the poor to rallies, and marching people around the block in protests, and piling them into low income-only high rises. All of which diminishes the lives and prospects of the puppets they purport to help.

   Comment by Uptown Gal on July 4, 2009 at 10:45 PM

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