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Hog Hammock residents take commissioners to court

Nine Hog Hammock residents filed a complaint in McIntosh County Superior Court for Writ of Mandamus, declaratory judgment, injunctive relief and equitable relief against the individual members of the McIntosh County Commission on Oct. 12.

Plaintiffs include Georgette "Sharron" Grovner; Marvin "Kent" Grovner Sr.; Lula B. Walker; Francine Bailey; Mary Bailey; Merden Hall; Florence Hall; Yvonne Grovner and Ire Gene Grovner Sr.

Defendants include Commissioners Kate Pontello

Karwacki, David Stevens, Davis Poole, William E. Harrell and Roger Lotson.

Filing the complaint for the plaintiffs are attorneys with The Southern Poverty Law Center in Decatur, and Jason J. Carter, with Bondurant, Mixson & Elmore, LLP, in Atlanta.

The complaint states, "Plaintiffs bring this action because the Defendants adopted an unlawful zoning amendment

that impacts the property and ancestral homeland of Plaintiffs of Hogg Hummock, located on Sapelo Island in McIntosh County, Georgia.

The zoning amendment violates state law and Plaintiffs' constitutional rights to due process of law and equal protection, guaranteed by both the Georgia and U.S. Constitutions."

McIntosh County

Commissioners amended the zoning ordinance on Sept. 12 to change the square footage of heated space allowed from 1,400 square feet to 3,000 square feet.

There has been a property tax freeze on properties on the island, which will expire in 2025. With the increase in allowable square footage, property taxes will increase. The complaint states that each of the nine plaintiffs would not be able to afford to continue living on the island if the property taxes on their homes significantly increased.

The complaint also states:

"Plaintiffs' land has been in their families for many years, and they plan to bequeath this land to their children and grandchildren. Selling land that has been in their families for decades or generations is untenable for Plaintiffs not only because they have nowhere else to go, but also because they will be deprived of the opportunity to pass on a rich legacy and intergenerational wealth to their families."

There are six counts of violations identified in the

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Sapelo

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complaint:

Count 1: Violation of Georgia Zoning Procedure Law, which it says McIntosh County, though actions taken by the Planning and Zoning Commission and the Board, "failed to comply with minimum notice and hearing requirements under state law" when it made the decision about the zoning amendment. This included failure to publish the text of the specific changes that were to be made. It claims there was failure to hold properly noticed public hearings. The meetings were held at 5:30 p.m., at the exact same time that the last ferry leaves the mainland for Sapelo. Although the ferry schedule changed to not depart from Meridian until 7:30 p.m. for each of the meetings, the complaint states the Hogg Hammock residents were not properly notified.

Another violation of the zoning procedure law, the complaint stated was there was a failure to afford interested citizens a meaningful opportunity to be heard.

"The version of the proposed zoning amendments that the public reviewed and commented on during the public hearing was materially amended twice — once by the Planning and Zoning Commission and once by the Board. There was no opportunity for the public to comment and raise objections to the amendments that were ultimately adopted ... This denied citizens a meaningful opportunity to be heard."

Count 2: Violation of Georgia's Open Meetings Act, with the suit stating that the county held a public hearing by the Planning and Zoning Board and two Commission meetings at times when the Sapelo residents could not attend, due to the ferry schedule; when there was not enough room in the meeting room to allow all attendees to be able to enter and hear the proceedings; and not permitting visual and sound recording during the open meetings for the public.

Counts 3 and 4: Violation of the Georgia Due Process Clause, which provides, "No person shall be deprived of life, liberty, or property except by due process of law."

The suit states, "When the governing authority exceeds the police power in regulating land use for zoning building standards or for any other purpose, the governing authority runs afoul of the due process clause of the Georgia Constitution."

The zoning change "is arbitrary and capricious and presents a significant detriment to Plaintiffs without substantially advancing the health, safety, morality and welfare of the public." The amendment "will increase the density and intensity of development in Hogg Hammock and raise individual property values, leading to increased property taxes on Plaintiffs' land, and the continued forced displacement of the Gullah-Geechee

community from the last of their ancestral homelands on Sapelo Island."

The amendment "deviates from longstanding protections of Hogg Hammock in its laws and policies. It is an aberration from the County's recognition of Article VI, Section 16 of Appendix C to McIntosh County's Code of Ordinances of the importance of preserving Hogg Hammock through intentional, thoughtful, low-density, and low-intensity development that considers the needs of the Hogg Hammock G u l l a h - G e e c h e e population."

"The Board had a duty to consider the Comprehensive Plan, which it adopted, in analyzing zoning requests related to the Hogg Hammock Zoning District, and to pass land use regulations that are consistent with the Comprehensive Plan."

The zoning amendment "does not substantially advance the health, safety, morals and general welfare of the of the public. Instead, it will change the cultural, racial, and economic composition

and character of the Hogg Hammock Historic District forever and be a catalyst for the increased gentrification which will harm Plaintiffs and continue forced displacement of the last intact Gullah-Geechee community in the United States."

Count 5: Violation of 14th Amendment—Equal Protection. It alleges "contemporary statements and actions of key legislators are direct evidence of a racially discriminatory purpose that motivated the County's zoning decision."

It included: "Chairman Stevens opined that the solution for Hogg Hammock descendants 'who do not want these houses being built' was to simply 'stop selling [their] land.'"

"Touting his relationships with older and deceased Hogg Hammock residents, Chairman Stevens concluded his comments stating the Lord called home his favorites, while 'this next generation doesn't have it, nor will they ever.'"

The suit asks for injunctive relief to prevent the county from enforcing the zoning amendment.

Count 6: Violation of Georgia Constitution of Equal Protection. "While property valuations and taxes will increase on the entire Island after the tax freeze expires in 2025, Plaintiffs, who are Black, and other Black residents will be disproportionately affected primarily due to past and current racial discrimination, compounded by low income, age, lack of affordable housing options and inability to move elsewhere."

Count 7: Writ of Mandamus. The suit seeks from the Court to compel the Defendants to comply with the laws of the state and county.

Count 8: Equitable Relief. "To ensure that Plaintiffs will be able to remain in their homes and on the land that they have owned for generations, Plaintiffs seek equitable relief from the Court, to include but not limited to, a continuation of the tax freeze currently in effect on their parcels."

And, Plaintiffs ask the Court award their expenses of litigation and attorney's fees.