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Wind power developer sues Somerset over project delay

SOMERSET - The developer of a proposed wind power project is taking the Town of Somerset to court over delays in its project that it blames on the town Planning Board.

The suit, filed Thursday, asks a judge to declare that the Planning Board broke the law when it decided in early October to require a full-length environmental impact form from Apex Clean Energy, not for the proposed 70 wind turbines, but for two temporary towers loaded with equipment to gather weather data.

The case against Somerset - which is officially opposed to the wind project - is tentatively scheduled to be argued Dec. 5 in State Supreme Court in Niagara Falls.

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The company, which brought suit under the name of its Lighthouses Wind subsidiary, contends that the Planning Board failed to comply with a legal deadline to make a decision on the

site plan and special use permit it sought for the two 197-foot meteorological towers on Lake and West Somerset roads, which the company says would be dismantled within three years.

The towers are really metal tubes less than a foot in diameter and held up by guy wires.

Their purpose is to gather wind data to include in studies that Apex must submit to the state siting board which eventually is to rule on its request to build 70 turbines, each as much as 620 feet tall including the length of the blades, in Somerset and the neighboring Town of Yates.

The company has yet to file its final application with the state Public Service Department, a filing that would reveal the exact locations of the turbines for the proposed 201-megawatt wind power project.

The suit claims that since the public hearings on the tower request were closed Aug. 4, under state law, the board had 62 days to make a decision on the requests. Instead, the Planning Board voted Oct. 6 to ask for the long assessment form. Apex is asking the court to declare that its weather towers would have no long-term environmental impact. That would speed up the process by months.

The legal papers assert that the town is trying "to further delay and frustrate (the company's) planned development."

Supervisor Daniel M. Engert said Friday that he doesn't concede that the Planning Board missed any deadlines on the weather towers.

"They (the Planning Board) have a responsibility for the health, welfare and safety of citizens. They asked for more information. It's as simple as that," Engert said. "The applicant is always able to agree with that and extend timelines. Instead, they chose to go to court and sue a small town to force their own timeline in order to force this industrial project."

Apex noted in its court filing that the Planning Board allowed it to erect an identical weather tower on Lower Lake Road in October 2014, without requiring the long environmental form.

The lawsuit also contends that the Planning Board held illegal executive sessions on the project, and its vote to order the company to fill out the long environmental assessment form should be invalidated on that basis.

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