

Cape May Star and Wave



159TH YEAR NO. 43 CAPE MAY, N.J. SERVING AMERICA'S NATIONAL HISTORIC LANDMARK CITY WEDNESDAY, October 23, 2013 50¢



HOUSE OF THE WEEK

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CAPER TIGERS CONTINUE TO STRUGGLE

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County Clerk ordered to court on referendum

By CHRISTOPHER SOUTH
Cape May Star and Wave

CAPE MAY – Cape May County Clerk Rita Fulginiti is expected to appear in Atlantic County Superior Court tomorrow to answer to charges related to placing a referendum on the Nov. 5 ballot, which Cape May officials say should not have been.

The City of Cape May filed for an injunction to remove a referendum question relating to Cape May's efforts to leave the Lower Cape May Regional School District. The city's special counsel on the

school funding issue, Vito Gagliardi confirmed last Thursday that an injunction had been filed. Superior Court Judge Julio Mendez responded to the complaint ordering Fulginiti to appear in Atlantic County Civil Court in Atlantic City on a motion to enjoin and restrain the clerk from placing Regional School Board Question No. 1 on the Nov. 5 ballot.

Last Wednesday, City Solicitor Anthony Monzo said the city was seeking to: a. Remove Regional School Board Question No 1 from the ballot and re-issue ballots for

Lower Township, Cape May and West Cape May; or

b. In the alternative, lock the voting machines in these three districts so that no votes can be cast on Regional School Board Question No. 1; post signs at each polling place in these three districts explaining why the question is invalid and cannot be submitted to the voters; and send a letter, in which she explains why the question is invalid and cannot be submitted to the voters, to all registered voters in the districts who received a sample ballot and to those individuals who

have already submitted their absentee ballots...

"By the time it was brought to her attention, the ballots by mail were already made available and people already voted," Monzo said. "The only way it can be taken off the ballot would be through the court."

Per a letter from Fulginiti, dated Oct. 10, responding to a letter from Gagliardi, Fulginiti said the county had been mailing ballots to voters since Sept. 18, and as of the letter 839 mail-in ballots had been mailed to voters in Cape May, Lower Township and

West Cape May, and 407 had been returned. Additionally, all the machine, sample, provisional and emergency ballots had been printed.

Monzo said the question might still appear on the ballot when people go to the voting booth, but there might be a way to block the vote electronically so it is not recorded.

Monzo said he was involved in the preparation of the complaint, which was filed on the basis that the school board has no authority to put a question on a ballot, that only a municipality or county

has such authority. The complaint also addresses the fact that there is no interpretive statement as is required for any referendum question.

When the question was submitted to the County Clerk in the form of a letter, school board attorney Peter Tourison said, "It is a yes or no question and I don't believe any interpretive statement is necessary."

The plaintiffs disagree. The two-part question asks: Whether the City of Cape May should be permitted to

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Winery lawsuit against mayor proceeding slowly

By CHRISTOPHER SOUTH
Cape May Star and Wave

WEST CAPE MAY – The lawsuit filed by Barbara Wilde and the Willow Creek Winery against the Borough of West Cape May and Mayor Pam Kaithern turned a year old on Oct. 9, but no one celebrated.

Wilde said she didn't want to sue the borough or the mayor and doesn't want to have conflict with the municipal government or the neighbors.

"Do I want to fight with these people? No?" she said.

Wilde said the lawsuit was filed to put an end to what she alleged was a pattern of harassment aimed at stopping her from, first, developing her winery, then holding celebratory events, such as weddings.

One Oct. 9, 2012, Wilde's attorney Colin Bell filed a lawsuit in the U.S. District Court alleging the Borough of West Cape May and the mayor violated Wilde's rights under the U.S. Constitution and civil rights under the New Jersey Civil Rights Act. The suit also alleges some unnamed co-conspirators and elected and appointed officials in West Cape May conspired with the defendants to violate the plaintiff's rights.

The complaint alleges Kaithern used her position as mayor to attempt to stop or impede the plaintiff's efforts.

Allan Richardson, the attorney representing Kaithern and the Borough of West Cape May, said his clients naturally deny all the allegations.

"The other side decided to litigate the matter in the media," he said. "The plaintiff has the burden of proof, and this is not in front of jury in federal court, it's not in front of federal court right now and the allegations have to be taken as what they are."

The complaint alleges Kaithern should have disqualified herself in official proceedings and actions,

but instead took adverse actions on various land use applications concerning the winery.

"The allegations of the borough interfering with them is totally false," Richardson said. "The borough has asked for a hearing with the agriculture board, and (the winery) certainly does have an impact on traffic and noise, and (the mayor and borough) were asking for clarification."

The mayor and borough have alleged the winery is violating its deed of easement as a preserved farm. The Willow Creek Winery entered into a contract with the County Agricultural Development Committee (CADC) to preserve 35 of its 50 acres. Wilde was paid \$890,000 in an agreement that the land would always remain as an agricultural use and not be developed. Documents provided by the borough include a letter from Susan Payne, executive director of the State Agricultural Development Committee (SADC), telling Wilde that hosting events such as weddings, anniversaries, birthdays, fundraisers, etc., were in violation of the deed of easement.

Kevin Celli, the winery manager, said that is not part of the contract Wilde signed with the CADC. According to Celli, there are no prohibitions of the events listed in Payne's letter, dated Jan. 10.

"We have no conflict with the state," Celli said. "Barbara (Wilde) signed the contract in 2003. Nowhere in the contract did it say we cannot have certain events."

"If it's not in the contract, and they don't pay you for it, it's not legal," Wilde said.

According to Celli, the prohibitions on certain events being held on preserved farms came into effect after 2003 and do not apply to them. Case history cited by Payne in a letter to the director of the Ocean County Agricultural

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Christopher South/Cape May Star and Wave

Above, firefighters from Town Bank operate a hose from a ladder truck in an attempt to contain a fire that started in the garage at Cape May Used Auto Parts. Tires in the garage area account for much of the black smoke. Water had to be trucked in (below) because there were no fire hydrants in the vicinity. Gasoline was ignited by a broken lead light.

Gasoline fire burns junkyard garage

By CAIN CHAMBERLIN
and CHRISTOPHER SOUTH
Cape May Star and Wave

LOWER TOWNSHIP – The owner of Cape May Used Auto Parts said the fire that destroyed the garage began while mechanics were removing the gas tank from a vehicle and a broken drop light ignited the fuel.

Bob Cumiskey, who has owned Cape May Used Auto Parts for 36 years, said he and two part-time employees were working on a vehicle in the second garage bay on a car lift. He said while lowering the gas tank out of the car, it shattered the work light hanging nearby, which created a spark and immediately ignited the fuel. Cumiskey said he and another employee tried

using two large fire extinguishers, but the devices did very little to control the flames.

"We tried. We tried, but there was nothing we could do," he said.

He said in his 36 years at the auto shop, he has never had a fire. Cumiskey said he couldn't believe what had occurred while performing a task he does regularly as a mechanic.

"It's something we do everyday – working under cars," he said. "It was just one of those freaky things that just happens."

Robert Guddat, a customer who was on the premises looking for parts when the fire began, said he called the fire department from the office phone before the fire spread to that portion of the



building. "There was no way we were going to stop it – it spread so fast," Guddat said. Heavy, black smoke could be seen for miles from the large fire that broke out on

Monday afternoon. Some neighbors reported hearing small explosions, with one saying it sounded like gunshots. Town Bank Fire Chief

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