

September 2013 Newsletter

## GLOBAL MISSION CHURCH PLANS HIT A ROADBLOCK

The Global Mission Church's (GMC) plan to build a megachurch complex near Sugarloaf Mountain between Doctor Perry Road and Old Hundred Road has run into a major roadblock. Last month, Judge William R. Nicklas, Jr. of the Frederick County Circuit Court ruled that GMC's application to build a secondary access road across its residential lot on Doctor Perry Road to the megachurch site (access to which will be from Old Hundred Road) violates restrictive covenants on the property that prevent such a use. The Judge ruled that GMC may not build the road. And the road is a requirement imposed on construction of the megachurch by the Frederick County Planning Commission because the size of the proposed complex and the number of people who would use it requires two means of access for emergency vehicles as a public health and safety measure.

In a 24-page written decision issued on August 14, following a motion for summary judgment by the Plaintiffs in the case, Chris and Sandra Sappe, owners of the adjoining residential lot on Doctor Perry Road, the Judge ruled that all of the lots in the subdivision -- including those owned by the Sappes and GMC -- are subject to pre-existing covenants that limit structures on the lots to residences and ancillary uses, and that a road benefitting the adjoining lot on which the megachurch would be located does not meet that restriction.

The Judge ruled that the covenants are plain on their face, are not subject to contrary interpretation, and run with the land. He ruled that when GMC purchased the lot it knew or should have known about the restrictive covenant.

Judge Nicklas also found that GMC's proposal to use the lot for construction of bioretention facilities in conjunction with the proposed secondary access road violates the covenants. As a result of the Judge's opinion and order, these issues are decided for purposes of the case. GMC could appeal the decisions to the Maryland Court of Special Appeals. Only one issue remains subject to a trial in the Sappes' lawsuit against GMC -- whether church-related events that violate the covenants are ongoing. The trial is set for January 2014. Under ordinary legal rules, GMC may not appeal the Judge's rulings with respect to the secondary access road until the completion of the case.

For further information, or if you would like to discuss the Sappe case or the Sugarloaf Citizens Association's related appeal, now also pending before the Frederick County Circuit Court, please contact me at [president@sugarloafcitizens.org](mailto:president@sugarloafcitizens.org).

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Sugarloaf Citizens Association