

WHO OWNS HAZARDOUS LANDFILL?

Developer Accuses International Paper Company Of Fraud

BY TERRY POPE

Another lawsuit has been filed in the dispute over who owns the former Brunswick County landfill site in Leland.

In the latest suit filed in Brunswick County District Court, Wilmington West Land Co. is accusing International Paper Co. of fraud and says it will not pay for the 1,688-acre tract off Lanvale Road.

Developers claim International knew the landfill had been listed as a potentially hazardous waste site by the U.S. Environmental Protection Agency when it sold the tract in November 1988.

However, that fact was withheld during the sale "with the intent to deceive" Wilmington West, alleges the complaint filed by Wilmington attorney John F. Carter III.

Developers say they did not know the landfill was listed as a potentially hazardous dump until it was pointed out in January 1991 by the Brunswick County Planning Department.

Last month, the legal tables were turned. International filed a lawsuit in Brunswick County Superior Court against Wilmington West, claiming the developers had defaulted on its \$1.7 million payment due Nov. 15.

Wilmington West, headed by J.B. Gerald of Wilmington, who is developing Jackey's Creek Plantation along N.C. 133 and U.S. 17 in Belville, purchased the tract for \$2.4 million. International's lawyers have asked a Superior Court judge to foreclose on the property.

The development company says it stopped paying for the land because of the disputed deed. If it had been pointed out that the 10-acre landfill was a potentially hazardous dump, Wilmington West would not have purchased the tract, the complaint states.

The site was listed by the EPA in 1983 as a potential danger to humans, the lawsuit claims. It was placed on the "Superfund List" of the state's Solid Waste Management Division of the N.C. Department of Environment, Health and Natural Resources as a likely hazardous toxic waste site that needed to be inspected and possibly cleaned up because of potential groundwater, surface water and soil contamination.

The Superfund program uses federal funds to identify and to remove contaminated materials from areas where they pose a threat to persons or the environment. Part of the landfill was operated as an open dump with unrestricted access while asphalt and oil drums were put into the landfill's unlined trenches, the EPA states.

Wilmington West wants a jury to rescind the deed and award it damages in excess of \$10,000. The developers are also asking for \$840,000 it says was paid to develop, improve and market the property.

During the 1970s, the landfill was leased by Brunswick County from International Paper as a sanitary landfill. A permit to operate the site was officially closed out in July 1984 while the site stopped receiving solid waste in January 1980.

Wilmington West says it has paid \$771,016 since 1988, or \$385,990 in principal and \$385,025 in interest for the first and second annual payments. It says a third annual payment of \$355,111 was due last month.

A deed fails to label the landfill as a potentially hazardous waste site, the lawsuit states. International has known of its status since 1983, it claims.

By law, deeds are required to state when land has been used as a sanitary

landfill or a disposal site for hazardous wastes when it is sold, leased, conveyed or transferred, it states.

The deed that records the company's land deal with International does not indicate that part of the land purchased was a former haz-

ardous waste landfill, according to documents on file at the Brunswick County Register of Deeds office.

Wilmington West has attempted to sell at least part of the 1,688 acres. It filed a preliminary plat with the Brunswick County Planning

Department in December 1990 showing plans for a subdivision over the former dumping ground.

Called "Between the Creeks," the plat map showed a cul-de-sac and roadway leading to the old landfill site with 13 lots platted on top of the

former landfill.

A company representative said Wilmington West had planned to sell the space as garden or recreational space for buyers in the planned subdivision and not as building space.

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