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## Wildlife rehab looks for second chance

By Tracy Harris

Thursday December 20, 2012 at 4:22 pm

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A state law declaring 'agriculture supremacy' is now the center of an ongoing battle between the county and a Goshen wildlife rehab center

Second Chances Wildlife Rehabilitation Center founder Brigette Williams is

appealing a July 2011 ruling by the county's board of adjustments and appeals

Judge Karen Conrad heard oral arguments in the case Dec. 12 in Oldham Circuit Court

Last year, the BOAA upheld a decision that the center was not a permitted use of Williams Goshen property

Second Chances is located on Buckeye Trace in Goshen where the Williams own two 5-acre tracts zoned agriculture and conservation

A licensed rehabber, Williams rehabilitates orphaned or injured wildlife — nothing larger than a opossum — and cares for them until they can be re-released into the wild which she does on a large farm in another county

She is the only rehab center in the county that treats wildlife

All the properties on Buckeye Trace are zoned agriculture because the developer didn't want to invest the money necessary to have them rezoned to residential the developer testified

But attorneys for Williams argue the decision should be overturned because of the state's agriculture supremacy clause

James Ballinger, Williams' attorney, argued Dec. 12 the clinic should be considered an agriculture use of the property and therefore exempt from zoning regulations according to state law

Ballinger cited the 'agriculture supremacy clause' a part of the state law regulating county zoning laws that declares land used for agricultural purposes is subject only to zoning regulations concerning setback lines flood plains and dwellings

Ballinger argued both the U.S. Department of Agriculture and Oldham County Property Value Administrator consider the property a farm — and therefore could be used for agriculture

Ballinger also claimed BOAA members ruled arbitrarily when deciding against Williams July 2011 appeal when they voted 3-1 to uphold Planning and Development Director Jim Urban's decision to deny her a conditional use permit

Local laws include permitted and conditional uses for each of the county's 22 zoning districts

However a 'wildlife rehab center' is not included as a use under any district.

That gray area remains a primary point of contention

Attorneys on both sides now agree the center is best considered a veterinary hospital considered a conditional use for agricultural and conservation districts

But Beach Craigmyle, attorney for the BOAA, said he doesn't believe the court has the authority to overturn the decision

Conrad said she was not prepared to rule on the case immediately because she wanted to watch the entire BOAA hearing — about five hours of testimony and discussion

She also noted the BOAA considers the impact of a conditional use permit on the community when making decisions

'If they've interpreted 'community' much broader in the past' she said 'interpreting it

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The Oldham Era

edition


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narrowly — 25 homes — might be considered arbitrary.”

Conrad did not set a date for ruling on the case.

Williams also faces a civil lawsuit, in which the Buckeye Trace Homeowners Association claims Williams is violating deed restrictions.

That case is currently scheduled for a jury trial in October 2013.

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