

Judge dismisses second YMCA lawsuit; Fitness clubs considering appeal

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A judge has dismissed a lawsuit that alleged the

Charlottesville City Council

violated state procurement laws by awarding a ground lease to the

Piedmont Family YMCA

to build and operate an aquatic and fitness center in

McIntire Park

.



Mayor Dave Norris appeared at a press conference held by the Piedmont Family YMCA to celebrate the ruling

“This court decision today is a major victory for children and families of Charlottesville and Albemarle County... who cannot afford the private gym memberships in this community,” said Mayor

Dave Norris

, a supporter of the new facility.

A consortium of local fitness clubs, including ACAC Fitness and Wellness Center,

had argued that the city had no right to specify that only non-profit organizations could submit bids for the lease

. The council

voted to grant the lease to the YMCA in December 2007

. No other groups submitted a proposal.

In her ruling from the bench Wednesday, Judge Cheryl Higgins said the city had wide discretion to

specify how its property would be used by a third-party organization.

“When a municipality is leasing its land, they want to ensure it is for the benefit of their citizens,” Higgins said.

The lease, and a separate use-agreement, set rates and specify that no Albemarle or Charlottesville resident will be denied access for financial reasons.

The Charlottesville Area Fitness Club Operators Association includes ACAC, Gold’s Gym and Total Fitness. Ed Lowry, the association’s attorney, said the ruling did not surprise him because Higgins had previously dismissed a similar case against Albemarle County.

“The underlying legal issues are the same, and that is whether a municipality or a county has the right to avoid the statutory requirements for competitive bidding when they’re dealing with a non-profit entity,” Lowry said in an interview.

Lowry has already appealed the Albemarle ruling to the Virginia Supreme Court, and said he expects his clients may want him to do the same in the Charlottesville case.

“They really feel that the citizens of the city and county are best served by competitive bidding,” Lowry said. “If the YMCA can produce the product at a cheaper price, that will come out in the bidding process.”

The Virginia Supreme Court will decide whether to hear the appeals by the end of the summer, extending the legal uncertainty for YMCA officials.

“These lawsuits are the only thing standing in the way of breaking ground,” said Kurt Krueger, chair of the YMCA’s board of directors. He said design work for the 70,000-square-foot facility is complete, a site plan has been approved by the city, and preliminary financing is in place.



Kurt Krueger

Krueger said the YMCA has worked with the city and Albemarle County in an open manner and offered multiple opportunities for input from the private fitness clubs.

“ACAC representatives attended many if not most of those meetings, forums and hearings and voiced opposition to the project, but not on the grounds alleged in their lawsuit,” Krueger said. “Nor did they offer up an alternative or submit any proposal.”

Krueger said he was investigating other ways to move the project forward.

“There are methods by which when we issue bonds we may be able to get an expedited hearing on those appeals,” Krueger said.

Chris Craytor, a spokesman for the Charlottesville Area Fitness Club Operators Association, said the

organization had not yet decided whether to proceed with another appeal.

“Although we are disappointed with today’s outcome, we appreciate the right to participate in the judicial process and will weigh our options going forward,” Craytor said in a prepared statement.