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Builder, town must pay landowner nearly \$1.9 million in lawsuit

By Matt Gryta

NEWS STAFF REPORTER

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The Town of Clarence and Keiffer Enterprises have been ordered to pay an Amherst restaurateur \$1.89 million for turning his 40-acre Clarence property into a swamp.

Following a three-week trial before State Supreme Court Justice Frederick J. Marshall, a jury Tuesday found the town liable for \$1.31 million in damages and Keiffer, \$328,400 plus \$250,000 in punitive damages, for flooding the site since 2000.

Joseph J. Manna, lawyer for Paul Marinaccio Sr., said he anticipates an appeal of the jury verdict but is confident it will be upheld. Attorneys for Clarence and Keiffer, which is based in Clarence, could not be reached to comment. Manna also said the town's liability is "a taxpayer expense."

Marinaccio, 61, lives in a house on a two-acre section of the 40-acre site, which he purchased in 1995 with the idea of developing a subdivision on 38 acres, Manna said.

Marinaccio also owns Marinaccio's restaurant, the former Little White House, on Main Street in Amherst, and operates Accadia Sites Contracting, his attorney said.

During the trial, Manna said the town began routing water onto Marinaccio's land in 2000 to assist in developing the Keiffer- built Lexington Woods subdivision.

Though the town's engineer had recommended Marinaccio be asked to grant an easement, this never occurred and Keiffer built the subdivision off County Road, south of Marinaccio's land, Manna said.

Marinaccio, whose house requires two sump pumps, was denied assistance from the town, forcing him to go to court, Manna said.

Manna said the water damage turned the land into a wetland, unsuitable for housing development and now subject to wetland regulations by both the federal and state governments.

Marinaccio could not be reached to comment. However, Manna said his client was "very pleased" with the verdict.

mgryta@buffnews.com



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