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Jury orders Clarence, developer to pay

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NEWS STAFF REPORTER

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A jury has ordered the Town of Clarence and Kieffer Enterprises to pay businessman Paul Marinaccio Sr. nearly \$1.9 million for the water damage that made his 40-acre site nearly unusable, but the decision will be appealed, an attorney for the development company said Tuesday.

Following a three-week trial, a Buffalo jury last week found the township liable for \$1.3 million and the Kieffer firm liable for \$578,400, including \$250,000 in punitive damages, for flooding Marinaccio's property.

But Dennis P. Glascott, the attorney for Kieffer Enterprises, said he has discovered an easement the township had since the 1960s to run storm water across the property that Marinaccio acquired in 1995. He said that easement will be the basis for an appeal.

Joseph J. Manna, attorney for Marinaccio, operator of an Amherst restaurant and a local road and sewer contracting firm, said that State Supreme Court Justice Frederick J. Marshall barred use of that 1960s easement because attorneys for the defendants did not disclose it until the jury trial was getting under way.

Manna said that easement would not have affected the bulk of the property Marinaccio purchased years after prior land owners had agreed to such a deal.

The flooding of the Marinaccio property off Lapp Road has turned the property into federal- and state-regulated wetland unsuitable for the subdivision development Marinaccio had planned, according to his lawyer.

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