

Document: Post Office Preservation Efforts Head To Court; Stamford...



Post Office Preservation Efforts Head To Court; Stamford case could set precedent as postal service downsizes

Connecticut Law Tribune

June 30, 2014 Monday

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Section: Pg. 5; Vol. 40; No. 26

Length: 1117 words

Byline: AMARIS ELLIOTT-ENGEL

Body

In the early 1900s, federal buildings tended to be monumental-beautifully designed and built with high-quality construction materials so they would last. One hundred years later, the result is an inventory of historic post offices that are often larger than the U.S. **Postal** Service requires due to the declining volume of mail and increased automation.

Federal court litigation over the **Stamford** Main Post Office, built in 1916, is just the latest example of how the USPS's modernization efforts are putting the quasi-public agency in

conflict with laws meant to preserve history and protect the environment.

The **postal** service closed the building last September and is transferring its functions to other **postal** facilities in the city. The USPS wants to sell the building to the Cappelli Organization for \$4.3 million. The White Plains, N.Y., developer wants to demolish part of the post office and erect two 20-story luxury apartment towers behind the building.

A group of plaintiffs went to court on the day the developer and the **postal** service were ready to close the deal, arguing that the "**postal** service seeks to pass title to a developer without obtaining from it sufficient protections for the historically and culturally important features of the property."

The plaintiffs are the National Post Office Collaborate, a nonprofit formed two years ago to fight to preserve the historic post office in Berkeley, Calif., and now fighting to preserve historic post offices nationally; the **Stamford**-based Center for Art and Mindfulness, which tried unsuccessfully to buy the building as an arts center; and **Stamford** resident Kaysay Abraha.

Jacquelyn McCormick, executive director of the collaborate, said since her group and the other plaintiffs filed their lawsuit last fall, the **postal** service has not closed any post offices elsewhere in the country. The legal dispute over the **Stamford** building could be a test **case** for how the **postal** service handles the disposition of its historically significant properties, she said.

Historical post offices in Derby and New London are also for sale, according to a congressional report from the Advisory Council on Historical Preservation published earlier this year.

The USPS' "intention is to use their quasipublic status ... and turn their back on it when it suits them," McCormick said.

'Spectacular Example'

The **Stamford** Main Post Office, which has been on the National Register of Historic Places for almost 30 years, is **set** on a pink granite base. Granite steps lead to a terrace bordered by two wings of the building. The plaza has two bronze-and-glass lantern fixtures. The interior has high ceilings and the lobby floor is trimmed in pink and white marble.

The plaintiffs challenging the plan argue that the "building is a spectacular example of American-Italianate architecture and represents a piece of American history from a bygone era."

Despite the historical features, the defendants claim the post office, also known as the

Atlantic Street Station, is in poor condition and poses health risks from falling plaster, lead paint, mold and a lack of hot running water. A deal reached with a previous private bidder was scuttled, in part because of costs related to removing asbestos and lead paint, according to the USPS.

The USPS argued in court papers that it has no money available to fix the building, as it has already borrowed the \$10 billion maximum available to it for capital expenditures nationwide.

The plaintiffs argue that the USPS only gave two days notice that the post office would be closed. The plaintiffs also argued that the USPS failed to follow Section 106 of the National Historic Preservation Act, which requires federal agencies to consider the effect of selling historic properties. Further, the plaintiffs alleged the USPS failed to conduct an environmental assessment or obtain an environmental impact statement as required under the National Environmental Policy Act. That federal law requires agencies to consider the effect of major federal actions on the "quality of the human environment."

Injunction Granted

Last October, U.S. District Judge [Janet Bond Arterton](#) ▼ granted a preliminary injunction barring the sale of the property on the grounds that the post office's compliance with the environmental review law was deficient.

The USPS categorically excludes from the environmental review process any sale or real property that "does not involve an increase in volumes, concentrations, or discharge rates of wastes, air emissions, or water effluents." But [Arterton](#) ▼ expressed skepticism that the construction of two high-rise apartment buildings would have the same impact on the neighborhood environment as the day-to-day operations of a post office that has already been built.

"At oral argument, USPS was unable to point to any evidence in the record showing that USPS specifically considered Cappelli's plans to develop two high-rise residential apartment buildings at the site," [Arterton](#) ▼ wrote. "The only evidence of USPS's consideration of the categorical exclusion was a simple unelaborated 'yes' response on a checkbox form completed over two years prior to the contemplated action."

[Arterton](#) ▼ noted the USPS' difficult financial circumstances, including a mandate to pay \$5.5 billion into a health fund for future retirees. However, the judge said, the USPS cannot evade compliance with the environmental review law just because compliance is time-consuming or inconvenient.

David Friedman and Kristen Zaehring, of Murtha Cullina in **Stamford**, and Barry Trilling, of [the Trilling Environmental Law Firm](#) ▼ in Fairfield, are representing the plaintiffs.

The U.S. **Postal** Service is represented by the U.S. Attorney's Office for Connecticut and the U.S. Department of Justice's Environmental & Natural Resources Division. One of the attorneys involved, Assistant U.S. Attorney [Ann Nevins](#) ▼, based in Bridgeport, declined to comment on the pending litigation.

The **case** in **Stamford** also could test the contours of the public trust doctrine, a principle which holds that certain resources are preserved for public use and that the government is required to maintain them for the public's reasonable use.

In this **case**, the plaintiffs argued that while the USPS actively manages its post offices, the public retains the superior right of collective ownership of those buildings. The **postal** service says the plaintiffs are misinterpreting the law.

The federal lawyers said the U.S. Supreme Court has held that the public trust doctrine is a creature of state law and applies only to the states in some dealings with private parties.

Oral arguments were held in May on the public trust doctrine claim and another claim. No ruling has been issued yet.

Classification

Language: ENGLISH

Publication-Type: Newspaper

Subject: POSTAL SERVICE (92%); CONSTRUCTION (90%); CONSTRUCTION MATERIALS & COMPONENTS (89%); HISTORIC DISTRICTS & STRUCTURES (78%); LOBBYING (78%); HISTORIC SITES (77%); LAW COURTS & TRIBUNALS (76%); LITIGATION (76%); ASSOCIATIONS & ORGANIZATIONS (73%); HISTORY (72%); SUITS & CLAIMS (72%); NONPROFIT ORGANIZATIONS (72%); LOBBYING (78%); LOBBYING (78%); LITIGATION (76%); LITIGATION (76%); ASSOCIATIONS & ORGANIZATIONS (73%); ASSOCIATIONS & ORGANIZATIONS (73%); NONPROFIT ORGANIZATIONS (72%); NONPROFIT ORGANIZATIONS (72%); SUITS & CLAIMS (72%); SUITS & CLAIMS (72%); HISTORY (72%); HISTORY (72%)

Organization: UNITED STATES POSTAL SERVICE (92%)

Industry: POSTAL SERVICE (96%); POSTAL SERVICE (96%); CONSTRUCTION MATERIALS & COMPONENTS (78%); CONSTRUCTION MATERIALS & COMPONENTS (78%); HISTORIC DISTRICTS & STRUCTURES (78%); HISTORIC DISTRICTS & STRUCTURES (78%); CONSTRUCTION (78%); CONSTRUCTION (78%); HISTORIC SITES (77%); HISTORIC SITES (77%); LITIGATION (76%); LITIGATION (76%)

Geographic: SAN FRANCISCO BAY AREA, CA, USA (79%); SAN FRANCISCO BAY AREA, CA, USA (79%); SAN FRANCISCO BAY AREA, CA, USA (79%); CALIFORNIA, USA (79%); UNITED STATES (94%); UNITED STATES (93%); UNITED STATES (93%)

Load-Date: June 30, 2014

Content Type: Legal News

Terms: Stamford case could set precedent as Postal Services downsizes

Narrow By: -None-

Date and Time: Jun 05, 2015 01:08:12 p.m. EDT