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Suit Filed To Block Herndon Labor Site Group Says Town Is Acting Illegally

By Carol Morello

Washington Post Staff Writer

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A conservative legal group sued the town of Herndon yesterday in an attempt to block an official site where day laborers can wait to be hired, saying the plan would attract immigrants who are in the country illegally.

Six Herndon residents are listed as plaintiffs in the suit, filed in Fairfax County Circuit Court. The suit alleges that the Town Council violated federal and state laws last month when it voted to approve a regulated site for the laborers.

The suit was brought on the residents' behalf by the advocacy group Judicial Watch, which hopes to set a national precedent with the day labor site approved by Herndon's council Aug. 17.

Judicial Watch describes itself as a government watchdog. It brought dozens of cases against officials in the Clinton administration and represented Paula Jones and Gennifer Flowers. It also sued Vice President Cheney in an unsuccessful bid to view records of his Energy Task Force.

"We want to shut down the day laborer site," Tom Fitton, president of the organization, said yesterday. "This day laborer site undermines and violates federal immigration law, and it can't go forward."

Herndon Mayor Michael L. O'Reilly released a statement saying Judicial Watch had "recruited" residents as plaintiffs to further its agenda of influencing federal immigration policy.

"Clearly the national immigration issue needs to be handled by Congress and the executive branch and not by small local governments such as Herndon," he said. "Whether or not a regulated site opens in Herndon will have no impact on the national issue."

Fitton said the suit is the first of its kind in the country against a legally sanctioned site for day laborers. Montgomery and Arlington counties have similar sites.

The proposed Herndon job center for day laborers, on town property behind a former police station, is supposed to replace an informal site that has existed for years in the parking lot of a 7-Eleven. Town officials have said they also will pass an ordinance making it illegal to solicit jobs anywhere in town besides the authorized site.

The site is to be run by a coalition of charities and residents, called Project Hope and Harmony. It

has applied for a grant of as much as \$175,000 to cover a portion of the first year's operating expenses. Organizers aim to have it open before the end of the year and are looking for architects to design an open-sided shelter that will be built by the day laborers themselves.

"We feel the courts in the end will see it our way, but we have to let that process go through," said Bill Threlkeld, director of Project Hope and Harmony, which is not named as a defendant in the suit.

The lawsuit asks the court to issue a permanent injunction that would effectively void the town's permit for Project Hope and Harmony.

Judicial Watch contends that the site violates federal laws prohibiting the hiring of undocumented workers and a Virginia law, due to take effect in January, banning public assistance to illegal immigrants.

An unknown number of the day laborers in Herndon, most of whom are from Central and South America, do not have the documents required to be in the country legally. In a 2003 survey taken by Fairfax County, 85 percent of the 201 day laborers polled cited a lack of documents as an impediment to their finding a permanent job.

Fitton said town officials are shirking their duty by not enforcing trespassing statutes and abetting illegal immigration by approving a regulated site.

"The solution is in law enforcement and not taxpayer subsidies," he said.

Fitton said he would have preferred to have the Justice Department or state attorney general insist the laws be enforced.

"But they don't want to confront this issue any more than the town of Herndon does," he said.

"The governor of Virginia has been AWOL on this issue. The law enforcement problem goes top to bottom."

None of the six plaintiffs returned phone calls seeking comment. About a dozen Herndon residents came to the Judicial Watch offices yesterday afternoon. But none would talk after a spokeswoman for the group advised them not to speak to reporters, saying it would detract from the announcement of the lawsuit's filing.