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# Delays in grant for Lockport rink revise projected opening to 2010

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NEWS NIAGARA BUREAU

LOCKPORT — The local group planning to operate an ice arena in a former supermarket here is pushing back the projected opening date.

Delays have cropped up in obtaining the state grant the group is counting on to buy the building, said Corporation Counsel John J. Ottaviano, a hockey dad and a member of the board of Lockport Ice Arena and Sports Center.

Ottaviano said the goal of opening the rink by the fall of this year, announced in a news conference last summer, will not be met. He said the new target is the spring of 2010.

However, State Sen. George D. Maziarz, R-Newfane, said Friday that despite the state budget crisis, he's still confident that the State Dormitory Authority will come across with the expected \$400,000 grant to the hockey group.

Lockport Ice Arena has an agreement to buy the 62,000-square-foot former Jubilee store at 34 Chestnut St. from Benderson Development Co. for \$350,000. However, that money is supposed to come from the Dormitory Authority grant.

Maziarz said the problem lies with the group's paperwork. "They filed something, but they filed it in the wrong form," Maziarz said.

Ottaviano said Lockport Ice Arena filed a short version of a mandatory environmental-impact statement, but it turns out that a long-form version was required. That hasn't been completed yet, he said.

Also sought by the Dormitory Authority are an appraisal of the building, a revised budget for the group, and proof that Benderson has extended the real estate contract to allow for the delay in funding.

Ottaviano said a private-sector bridge loan has been lined up to pay Benderson even if the grant is further delayed.

A Dormitory Authority spokesman did not return a call seeking comment Friday.

Meanwhile, the Ice Arena board met Saturday with Marie Battaglia, a Buffalo fundraising consultant, about

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Ottaviano said the group needs \$3.9 million to install a 200-by-85-foot sheet of ice in the old store, along with a few bleachers and some other amenities.

Although area residents will be asked to donate, Ottaviano said, “The public aspect will not be in the forefront. The first objective will be to approach endowments and foundations.”

While that’s going on, a lawsuit over Benderson’s previous attempt to sell the store has been sent back to State Supreme Court.

In 2006, Benderson sued Lockport developer David L. Ulrich for backing out of a deal to buy the property.

Justice Richard C. Kloch Sr. dismissed the lawsuit in June 2007, but on New Year’s Eve, the Appellate Division of State Supreme Court unanimously reversed his ruling and reinstated Benderson’s suit.

It seeks \$1 million in punitive damages plus reimbursement for cleanup costs Benderson incurred after an environmental testing firm hired by Ulrich took soil samples and found evidence of underground petroleum contamination behind the store.

The suit does not say how much Benderson spent on the cleanup, but it implies that the cost was substantial. Ulrich thought that it was more than \$100,000. Benderson’s corporate and retained attorneys did not return calls Friday.

“Benderson had a contaminated site, and they were upset when they found out they had to clean it up, which they should have done in the first place,” Ulrich said.

The original purchase contract for the property in October 2004 set a price of \$575,000. Ulrich canceled it because of environmental worries, but talks soon resumed, and a second contract in the spring of 2005 called for Ulrich to pay \$600,000 for the empty store.

After soil tests discovered the contamination, Ulrich backed away from the purchase.

The lawsuit asserts that crews from Nature’s Way Environmental Consultants & Contractors trespassed on the property to gather soil samples after the cancellation of the first purchase contract. The second was not signed.

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