

NO. A05-0912

JUN 15 2007

State of Minnesota  
In Supreme Court

FILED

All Parks Alliance for Change,

*Petitioner,*

v.

Unipro Manufacturing Housing Communities  
Income Fund, d/b/a Ardmor Village,*Respondent.*


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**RESPONDENT'S OBJECTION TO PETITION FOR REHEARING**

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TO: THE SUPREME COURT OF THE STATE OF MINNESOTA:

Respondent Unipro Manufacturing Communities Income Fund, d/b/a Ardmor Village (Unipro) submits this memorandum in opposition to Petitioner All Parks Alliance For Change's (APAC's) petition for rehearing:

**A. This Court Adequately Applied The Five-Prong Test For Reasonableness.**

APAC's first argument is that this Court overlooked the fifth prong of the reasonable limits test<sup>1</sup> - whether the district court's ruling significantly diminishes or eliminates a material right, privilege or freedom of action of an Ardmor Village resident. In fact, both this Court and the district court specifically analyzed the interests of Ardmor's residents.

In so doing, this Court found that the district court expanded the time periods during which noncommercial speech is permitted in Ardmor Village, required Unipro to provide the "No Contact" list to APAC, and permitted APAC to petition the Court for an evidentiary hearing should 25% of the occupied home sites join the "No Contact" list. By redrawing Ardmor's announced solicitation rule, the district court was narrowly tailoring that rule so as to preserve the rights, privileges and freedoms of Ardmor Village's residents.

Moreover, the dissenting opinion of Justice Page (joined by Justice Paul H. Anderson) provides additional analysis of the impact of the district court's ruling on the residents of Ardmor Village. The dissent makes specific reference to the impact of the district court's ruling on "the rights of park residents" (Slip opinion, p. 8); "the ability of park residents to

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<sup>1</sup> While Petitioner characterizes the five-prong reasonable limits test as "new" it is actually the application of two statutes, Minn. Stat. §§ 327C.01, Subd. 8, and 327C.02, Subd. 2, that have been the law in Minnesota for a quarter century.

receive information about their rights” (Slip opinion, p. 9); and “residents who would speak out in opposition to the actions of park management” *Id.*

This dissenting opinion was presumably considered and rejected by the Court’s majority. There is certainly no reason to assume that the majority was unaware of the text of the dissent at the time it issued the opinion of this Court.

The district court certainly gave due attention to the impact of the challenged solicitation rule on the rights of the Ardmor Village residents. The district court specifically referred to the statutory purpose of Minn. Stat. Chapter 327C as providing information to these residents (District Court Memorandum, p. 16). Accordingly, there can be no doubt that the district court had both APAC and the residents of Ardmor Village in mind when it crafted the present restrictions on in-park activities.

For these reasons, it is clear that this Court, and the district court, adequately considered whether the restrictions at issue significantly diminish or eliminate a material right, privilege or freedom of action of an Ardmor Village resident.

### **Conclusion**

APAC’s request to for rehearing should be denied. The five-prong test is soundly based upon long-standing statutory standards. Further, the evidence regarding the interests of Ardmor Village’s residents was properly considered by both the district court and this Court. Accordingly, this Court should deny APAC’s request for rehearing.

Respectfully submitted,

Dated: June 14, 2007.

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