

## DeReef Park hearing 'to be continued'

An attorney for The Gathering at Morris Square said Tuesday its developers are losing \$60,000 a month because of uncertainty over whether governments properly allowed the former DeReef Park to be redeveloped as 33 single-family homes.

Attorney Matt Tillman asked U.S. District Judge David Norton to find that the Friends of DeReef Park, a nonprofit citizens group, acted negligently when it sued the city, state and federal government over the park but did not include the developer in the lawsuit.

"I've never heard of anybody who wanted to be sued," Norton replied.

While the developer was not originally a party to the lawsuit, questions over the property's legal status have ground development to a halt, Tillman said.

Norton did not rule during Tuesday's hearing, and the parties will return to court on April 28 to argue whether The Gathering's developers are "a bona fide purchaser" of the former park property just north of Morris street.

Susan Herdina, an attorney for the city of Charleston, said that issue "is perhaps the King of the Hill."

The Gathering at Morris Square bought the approximately 1-acre park in early 2012 and began building homes there. In 2013, however, the Friends sued, alleging that the federal, state and city governments failed to follow the law when they allowed the property to be built on. The city acquired the land with a 1981 federal grant, a condition of which limited its future use to recreation.

The city tried to transfer the restriction to another park site a mile away, but the National Park Service has said it wants to redo its process. That work could be finished by the end of July, said Edward Geldermann, a federal attorney representing the Park Service.

Tillman said that timetable will compound the developer's loss, but Norton said, "Making the regulatory process work quickly and efficiently is like pushing a chain. It just can't be done."

Danny Lutz, an attorney representing the Friends of DeReef Park, described the developer's counterclaim as a strategic suit designed to discourage residents from exercising their rights. About eight residents of the surrounding downtown neighborhoods attended Tuesday's hearing, but none of them spoke or were introduced.

Asked for his reaction after the hearing, developer Chris Phillips said, "To be continued, literally and figuratively."

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