

February 24, 2011

By ECF

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The Honorable George H. Lowe
United States Magistrate Judge
U.S. District Court for the Northern District of New York
P.O. Box 7346
Syracuse, New York 13261-7346

Re: Yoder, et al. v. Town of Morristown, et al., Civil Case No.: 09-cv-00007 (NPM/GHL)

Dear Judge Lowe:

We, along with the Becket Fund for Religious Liberty, represent the Plaintiffs in the above-referenced matter. We write, jointly with Defendants, to provide the Court with an update on the parties' settlement discussions.

The parties have made what appears to be significant progress on the settlement front. At this time, we believe that the only remaining issue concerns the Town's insistence that the NYS Uniform Building and Fire Prevention Code requires our clients to either install smoke detectors in their homes or secure a variance from the State regarding the same. As Your Honor will recall, we last met on November 8, 2010 along with counsel for Defendants and Mr. Ball from the New York Department of State. At that conference, we discussed the recent decision from the Western Region Board of Review (the "Buffalo Board") which granted a variance to an Amish individual named Emmanuel Miller, exempting him from, among other things, installing smoke detectors in his home (the "Buffalo Variance"). At that conference, Mr. Ball expressed skepticism that the Buffalo Variance would be upheld by his office. As it turns out, Mr. Ball was correct; the Buffalo Variance was remanded by the State Department and a new hearing is set to take place on March 24, 2011.

Proskauer has agreed to represent Mr. Miller in the new hearing. Once the hearing has taken place – and a decision reached on Mr. Miller's variance application – we believe we will be in a position to determine whether to apply for a variance for our clients in this case.

We will advise the Court of the Buffalo Board's decision once we learn of its decision. The parties are available to answer any questions the Court may have.

We thank the Court for its attention to this matter.

Respectfully,



Daniel P. Goldberger



The Honorable George H. Lowe
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cc: All By ECF

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