

The Berlin Sun

Neighbors sue Gorham, state agencies claiming OHRV trail 'nuisance'

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By Nancy West, InDepthNH.org

Homeowners near the OHRV trail and trailhead in Gorham are suing the town and state agencies that sanction them, arguing the noise, fumes and menacing behavior they bring to their neighborhood make it impossible to enjoy their homes.

The OHRV trail head and trail in their neighborhood has resulted in a high volume of usage, sometimes thousands of OHRVs in a week, according to the lawsuit filed by Hopkinton attorney Arthur Cunningham.

"The folks in this Gorham neighborhood have had a very tough time dealing with the OHRVs and the State and Town," Cunningham told InDepthNH.org. "It's become friend against friend, business against people and their homes and government, state and town, that has been unresponsive."

In the lawsuit filed in Coos County Superior Court, Cunningham wrote that the vehicles bring "reckless operation, speeding, noise, illegal after hours use, noxious exhaust fumes, dust, litter, public urination and obnoxious and threatening personal behavior of trail users that has substantially and unreasonably interfered with plaintiffs' right to the quiet enjoyment of their homes."

Gorham is a town in Coos County with about 2,848 people located in the White Mountains.

The homeowners in Gorham who are suing are Lois and Harry Stearns, Nancy and Bruce Neil, Mark and Heather Malia, Audrey and Rene Albert, Priscilla and Albert Bergeron, Sandra Lemire, Diane Holmes and Michael Pelchat.

Cunningham detailed an incident on Aug. 22, 2016, when Audrey Albert observed a trail user trespassing and urinating in her yard.

"When (she) asked him to get off her property, the man said: 'If you don't like it why don't you move. I'm here to ride.' Plaintiff Albert advised the Gorham Police that she was shaking and scared," Cunningham wrote.

In another incident on Sept. 10, 2017, Lois and Harry Stearns reported to Gorham police that four OHRVs stopped across the brook from her home and stated: "See, that's the house"; revved their engines and took off, as if to target and threaten them, the lawsuit states.

"The use of the OHRV trail head and trail in plaintiffs' neighborhood as approved and sanctioned by the town and state has caused plaintiffs harm that exceeds any customary interferences that plaintiffs must suffer in organized society and is an appreciable and tangible interference with their property rights," Cunningham said.

Messages left with Gorham and the state seeking comment weren't immediately returned. The story will be updated when they do.

The use of the OHRV trail head and trail has been and will continue to be a nuisance for which the neighbors have no adequate remedy at law, he said. Cunningham said the town has failed to enforce the zoning regulations.

The state of New Hampshire operates a trail system on public highways, abandoned rail beds and on private property that is utilized by off-highway recreational vehicles (OHRVs,) Cunningham said. A portion of the trail system is located in Gorham, which hosts a portion of the trail system.

The suit is filed against the town of Gorham and the commissioners of the Department of Transportation, Department of Natural and Cultural Resources, and the Department of Resources and Economic Development.

The homeowners are demanding a jury trial, permanent removal of the OHRV trail head and trail from their neighborhood, damages for the diminution of the fair market value of their homes, attorney fees, expert fees and expenses of litigation of this case.