

Cell tower lawsuit has cost village close to \$10,000

Prosecution of alleged code violation at village president's property has cost \$5,000

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VILLAGE OF WAUKESHA

— The Village of Waukesha has had its hands full with legal battles over the last few years.

Squabbles with the city of Waukesha — two incorporation-related challenges and a short-lived lawsuit over the Waukesha Water Utility's Lake Michigan pipeline — have cost the village more than \$41,000 thus far. But there are at least two other ongoing legal battles that have cost the municipality \$14,908 and counting: a challenge brought by a cell tower company and the village's pursuit of an alleged 2018 property code violation at a property owned by its village president.

The Freeman filed an open records request seeking information on how much

the village has spent on legal battles in recent years as part of Sunshine Week.

Cell tower lawsuit

The costlier of the two non-city-related legal battles the village currently finds itself in is the lawsuit that Diamond Communications filed against the municipality late last year.

Filed on Dec. 17 in Waukesha County Circuit Court, the complaint claims village officials violated state law when they denied a permit for a 12-story cellphone tower slated for the northwest corner of Glendale Road and Highway 164.

The proposed tower, which members of the Plan Commission and Village Board began considering last fall, was the second to be pitched by Diamond Communications. The company

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was granted a permit in October for a 14-story cell-phone tower at Infinity Fields.

The company claims its application for the tower should be approved, because officials failed to issue a final decision to approve or disapprove the conditional use permit for the tower within the state-required time frame of 90 days. The lawsuit also states that the village failed to provide “substantial evidence” supporting its denial of the application, another requirement of state law.

According to the open records request, the village has spent just over \$9,686 in private attorney fees so far to defend itself against the lawsuit, which is still in court.

Property code case

But perhaps the most befuddling of the non-city-related cases is the one that has seen the village spend

more than \$5,222 so far to prosecute Village President Brian Fischer for an alleged property code violation at his business property.

Issued in November 2018, under former Waukesha Town Chairman John Marek’s reign, the “noncompliance property violation” citation was reportedly issued against Broad-A-Corporation for two piles of landscaping stone that were located on the property, which sits at the northwest corner of East Broadway and Les Paul Parkway.

The original fine was for 83 days of violation with a minimum of \$4,150 in fines up to a maximum of \$83,000.

The case was brought to North Prairie Municipal Court last year after the municipal judge serving the Village of Waukesha recused himself.

The case was last slated to move to a bench trial after North Prairie Judge Mark Powers rejected a motion to dismiss brought by Fischer’s attorney.