

Even though I could swipe the grit from the glass surface of her outdoor table as I listened to a nearby rock crusher, I could offer little comfort to the resident who invited me to her home on the western border of Charlestown, about a football field away from the Copar Quarry in Westerly. Standards for the safe use of explosives and exposure to drifting stone dust are set by federal agencies, and serve as the guidelines for protection of the health and welfare of the nearby public. State officials remind us that little can be done to address the complaints of neighbors to the quarry if test results are in compliance with these federal guidelines. They observe only rarely. Off the record, some will say the guidelines are too permissive, and the law too weak to effectively address local concerns.

Given the proximity of the Westerly site to similar sites inviting exploitation in Charlestown, our Planning Commission worked several months to draft an ordinance to contain potential nuisance elements of quarry operations in Charlestown. When public hearings were held, the Town Council was overwhelmed with challenges to the legality of the draft ordinance by attorneys for several extraction businesses. Measures to protect residents against unacceptable adversities caused by the quarry operation were opposed by claims of interference with property rights of the quarry owners. The threat of protracted legal battles prompted the Town Council to withdraw the ordinance, with the suggestion it meet with the quarry operators, or their legal counsel, to try to arrange a compromise acceptable to both sides of the dispute. The quarry operators in attendance agreed to participate, and the Town Administrator is currently working to schedule such a workshop meeting.

The Planning Commission was not flying solo when it drafted the extraction ordinance. It was guided by existing ordinances in other towns in RI, and in other states. The problem is that we know of no case history of a court challenge to such an ordinance in other towns in RI, so we are hard pressed to gauge the merits of a legal challenge to a similar ordinance for Charlestown. The process of drafting an ordinance that will stand up in court is slow, and the legal groundwork a challenge to the Town Council. Inexplicably, we were unable to convince the state legislature to grant us the same legislative enabling power for enforcement it had previously granted the town of Middletown. It serves no useful purpose to draft an ordinance to bring temporary comfort to the aggrieved parties, only to have the ordinance struck down in court. I am not confident that, under current law, any ordinance drafted to survive a court challenge will have the power to bring comfort to those adversely affected by a quarry operation.

In the meanwhile, the aggrieved residents have exhausted recourse to government entities. None has been able to offer relief. Their only alternative is to hire legal counsel to document their grievances through an undisputed professional chain of custody for the evidence, in order to pursue a lawsuit for damages. While this may seem a logical course, it is an exceptionally expensive process and these are folks of modest means. Meanwhile, the major offender has deep pockets with which to fend off its accusers until they are financially ruined. It is not a level field.

Submitted by George Tremblay to Ambar Espinoza for use at her discretion.