

Court rules lawmaker had right to oppose property sale

Panel of judges says state legislator can't be sued for speaking out against transaction

The Associated Press

HARRISBURG — A state lawmaker cannot be sued for speaking out against the potential sale of a former facility for the mentally retarded, a state appeals court ruled Friday.

A three-judge Commonwealth Court panel upheld the dismissal of a lawsuit filed in Union County against state Rep. Russell Fairchild, R-Union, by Firetree Ltd., over the sale of the former Laurelton Center in Laurelton.

In a separate opinion, the court also upheld a ruling by the state Board of Claims that Firetree did not have an enforceable sales contract with the state Department of General Services.

Firetree had received a letter from DGS in November 2004 saying it was

the "preferred bidder" after submitting an \$883,000 offer for the 342-acre site with 52 buildings that was closed by the state in 1998, the court said.

The deal fell through, and Firetree said Fairchild "prevailed upon (DGS) to 'rescind' its contract with Firetree," according to the court opinion.

The judges said Fairchild's comments amounted to legitimate legislative activity, and the representative was immune from being sued for them.

"Basically, what we said was everything they raised — which would have included speaking out against the sale, or at least expressing the wishes of his constituents — that that was protected by legislative immunity," said Fairchild's lawyer, Cynthia R. Person.

Firetree is a drug- and alcohol-treatment provider based in Williamsport. Firetree's attorney, Daniel F. Schranghamer, declined comment Friday.

The state announced last year it was selling the center to Mountain Valley Inc., of Dayton, Md., for \$1.6 million.

A DGS spokesman also declined comment on the ruling.