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Dunham Tavern Museum, board members sued over proposed real-estate deal with Cleveland Foundation

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Lisa DeJong/The Plain Dealer

Dunham Tavern Museum is pictured here in March. The museum bought up 2.28 acres of adjacent land in 2012 with the intention of turning it into community green space. The museum board recently approved selling the land to the Cleveland Foundation. (Lisa DeJong/The Plain Dealer)

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By [Jordyn Grzelewski, The Plain Dealer](#)

CLEVELAND, Ohio – A possible real-estate transaction between a local museum and the Cleveland Foundation is the subject of a lawsuit filed Thursday in Cuyahoga County Common Pleas Court.

The lawsuit, filed by Fairlawn-based Pattakos Law Firm on behalf of Dunham Tavern Museum board member Christeen Tuttle and museum members Richard Parke and Ted Peterson, seeks to invalidate the [proposed sale of museum land to the Cleveland Foundation](#). The complaint names museum board President Tim Collins, board member David Wagner and the museum as defendants.

The suit alleges that the board's approval of the sale is invalid due to multiple board members' conflicts of interest and responsibility; that voting procedures were violated; and that the defendants breached their fiduciary duties.

In a statement, Collins said, "The lawsuit filed over the Dunham Tavern Museum board's legal and open vote to sell a parcel of land to the Cleveland Foundation is filled with inaccuracies and misstatements of fact. We deny all of the conflict of interest allegations made in the lawsuit, and we look forward to our opportunity to point out those flaws in more detail as this legal process proceeds." He added: "We plan to move forward."

[Dunham Tavern](#), now a history museum located at 6709 Euclid Ave., is the oldest building in Cleveland standing on its original site. The subject of the lawsuit is an adjoining property at 6611 Euclid Ave. that the museum acquired in 2012.

[The Cleveland Foundation](#), whose lease at its longtime Playhouse Square headquarters expires next year, confirmed to The Plain Dealer for a March story that it was exploring its headquarters options. The land next to the museum is one possibility; the Dunham Tavern Museum board recently voted to approve selling the land to the foundation, according to the court documents filed Thursday. The sale has not been approved by the foundation, and the land is still owned by the museum.

“While the Cleveland Foundation board has not made a final decision, we have been excited by the possibility of working with the Dunham Tavern Museum to expand its reach and impact in Cleveland, enhance the use of its green space, and transform the broader MidTown neighborhood and surrounding communities,” a foundation spokesperson said Thursday. “We have appreciated the open and collaborative dialogue with Dunham Tavern Museum’s board from the start. Our board will continue to review all of our options through our mission-driven search process and hope to provide an update in the coming months.”

The proposal to sell off the land drew backlash from some museum members and donors, who said the development of the land would be at odds with a long-held vision of converting the property into community greenspace. Twenty-two people signed a March 1 letter to the museum board expressing their opposition and notifying the board of plans to cut off their financial contributions to the museum over the matter.

The complaint filed Thursday notes the museum raised more than \$700,000 between 2012 and 2017 to purchase and restore the 2.28-acre site, “consistent with the organization’s stated mission and vision to ‘preserve, develop, and share historical Dunham Tavern Museum and its campus as an educational and cultural resource,’ ‘provide an urban green space in Midtown Cleveland, and to return the tavern to its roots by serving as a place for urban history, education, nature, and community.’”

The complaint alleges that Collins, Wagner and several other museum board members “stand to profit personally and financially from the sale,” in violation of the board’s bylaws. Collins is a partner at Cleveland law firm Collins & Scanon, which takes real-estate cases, the complaint states. Wagner is principal and managing director at real-estate brokerage firm Hanna Commercial Real Estate.

“...If the Cleveland Foundation builds and operates its headquarters on the DTM greenspace, the surrounding real estate will increase in value significantly and substantially, and the owners of the surrounding property — including other repeat players in the Cleveland real estate market and past, current, and potential clients of Collins and Wagner — will realize significant and substantial financial benefits as a result,” the complaint states. “By virtue of their status as repeat players in Cleveland’s real estate market and, independently, as employers and/or shareholders in their respective businesses, Collins and Wagner have conflicts of interest and conflicts of responsibility that bar their participation, in any manner, in the proposed sale.”

Further, the complaint alleges that Collins and Wagner have violated their fiduciary responsibilities to the museum by “failing or refusing to disclose the existence of their conflicts of interest and responsibility, in failing or refusing to abstain from participating in the proposed sale, and doing so for the express purpose of accruing personal and financial gain.”

The plaintiffs are asking for approval of the sale to be invalidated, as well as for “compensatory damages, punitive damages, and attorneys fees resulting from defendants’ intentional and fraudulent breach.” They have requested a jury trial.

The case has been assigned to Judge Nancy Russo.

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