

Court: Septic rule invalid

Ordinance wasn't properly advertised

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The Brown County Board of Commissioners may be rescinding the county septic ordinance originally passed in May 2013.

In a case involving former septic contractor John Simpson, Brown Circuit Judge Judith Stewart found that the current ordinance, which the commissioners passed in May 2013, is invalid because it was not properly published.

The law has to be removed from the books before it can be replaced, commissioner Diana Biddle said.

Stewart's opinion, issued April 13, said state law required that the 2013 ordinance be published twice in "a newspaper or qualified publication that is published in the municipality."

The commissioners' lawyer had argued that publication requirements were met when a version of the proposed septic ordinance was published twice in the Brown County Democrat in February 2012.

However, Stewart said the February 2012 version of the ordinance "differed in substantive and material ways" from the May 2013 version.

Under state law, any ordinance must be published at least once within 30 days of being passed. If an ordinance includes a penalty, such as fines — which the septic ordinance does — it must be published for two consecutive weeks before it takes effect.

In addition, Stewart said that the May 2013 ordinance having been posted to the Brown County Democrat website does not fulfill the requirements for publication.

As a result, the 2013 ordinance never went into effect, and the septic ordinance passed in 1997 has been in effect the entire time.

The commissioners could

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