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Blumenthal pushes Army to release legal opinion

By: SLOAN BREWSTER , Press staff

MIDDLETOWN - Keeping good on his promise to fight the U.S. Army as it moves forward on plans to build a training center in Middletown, Attorney General Richard Blumenthal is seeking ways to force the Army to release a legal opinion.

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Earlier in the month, Blumenthal requested, via the Freedom of Information Act, the U.S. Army Corps of Engineers release documents pertaining to a legal opinion it received on the 2005 Base Realignment and Closure Act (BRAC).

Blumenthal wants to see documentation in which the corps' counsel expresses how it interprets wording in the BRAC law that states the facility should be built here if suitable land is found.

In a telephone interview Thursday evening Blumenthal said he would fight to see an opinion letter, which he said cannot be concealed as it is a legal document. The attorney general said he contacted the U.S. Army's Judge Advocate General Corp's office and is waiting for a response.

Blumenthal and others, including Congresswoman Rosa DeLauro, believe the wording in the BRAC law suggests the facility may be put outside of Middletown, while Corps officials have consistently stated it must be built here.

Last week, Janice Lengel, acting counsel for the Louisville District of the Corps, responded with a short letter and some of the requested documents. She omitted others based on an exemption in FOI.

According to that exemption, "internal advice, and subject evaluations, as contrasted with factual matters that are reflected in records pertaining to the decision-making process of the agency" may be withheld, Lengel wrote in her letter.

Blumenthal said the corps sent all the other information he requested, including maps.

"It was virtually everything that we requested except the opinion," Blumenthal said.

"We don't believe that it is a credible or supportable distinction. The distinction they're setting forth really makes no sense."

After receiving Lengel's letter, endeavoring to get the opinion or an explanation of why not, Blumenthal's office called the corps.

"The response from the corps of engineers was essentially to say they would not give us any additional explanation," he said.

"Withholding this document betrays and belies the spirit of cooperation and openness in the corps' explicit promises and commitments," Blumenthal wrote in a press release. "This opinion letter is critical to assessing the corps' apparent misreading of the BRAC statute as mandating the new training facility be located only in Middletown. We believe strongly that the statute permits flexibility in siting it outside Middletown if no 'suitable' location can be found within that city."

Since Aug. 19, when Col. Keith A. Landry, commander of the Louisville, Ky. district of the corps, attended a meeting with local and state officials in City Hall, the corps has promised to keep its process in seeking land for the training center open and transparent and to inform residents and elected officials what it is doing.

Wednesday, during a forum on the center at Mercy High School, Mayor Sebastian N. Giuliano assigned several residents, including Common Council members Phillip Pessina and Ronald Klattenberg, to a liaison committee that will work with city hall and the Army on the process.

During that forum, the subject of the wording in the BRAC law was raised by folks on both sides of the argument.

"We feel very comfortable with the army interpretation that it has to be in Middletown," said David Dale, deputy district engineer of Louisville's district corps.

Matthew Lesser, candidate for the 100th District state House seat, asked Dale if the corps was prepared to make its opinion available to the public "so that we can have a look at it."

Dale responded in the negative.

Giuliano also weighed in on the subject. "Only Congress can tell them they're wrong, and they're not going to get involved," he said. Many in the crowd, however, did not concur with the mayor's thoughts on the matter.

"I, for one, despite what the mayor says, am interested in hearing the legal opinion and I don't think I'm alone," Ed McKeon said, to a round of applause.



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