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## Business

# Commercial laundry battles town over utilities

## *Industrial corridor commercial laundry seeks right to provide own water*



**The FDR commercial laundry facility off Rockland Road in Warren County. The business primarily services the health care industry, including hospitals and nursing homes, according to company officials.**

By Roger Bianchini  
Warren County Report

Is the Town of Front Royal business friendly?

Not according to representatives of a Plainview, New York-based industrial laundry operation in Warren County's northside U.S. 522 Industrial Corridor. However, town officials argue the company in question is simply seeking to extend a competitive commercial advantage by maintaining highly favorable rates tied to a now lapsed contract inherited when the business was purchased two years ago.

FDR Services Limited is seeking to reduce a huge increase in its water and sewer service bills from the Town of Front Royal – from an average of \$160,000 to \$1.2 million annually – by pumping water from wells on its property through its water system, then dumping the water into existing town sewer hookups.

Front Royal says “no” and attempts to negotiate a compromise solution on reduced water and sewer rates for the business have failed.

As a consequence FDR is challenging Front Royal on several legal fronts, including the town's right to mandate service hookups outside its boundaries, as well as the rates themselves. A May 21 motions hearing focused

on FDR's argument the town has exceeded the rights granted it by state law in mandating hookups outside its boundaries. Attorneys for both sides argued cross motions for dismissal and summary judgments on that legal point in front of Warren County Circuit Court Judge Dennis L. Hupp. After questioning both counsels on the nature of their arguments, Hupp said he would need time before reaching a decision.

FDR's challenge of the rates themselves is scheduled for trial in November, when whether the town is being arbitrary and capricious in establishing the company's rates versus the costs of providing the services will be argued.

### **Welcome to Front Royal, err Warren County**

FDR Director of Governmental Affairs Michael Peragine contends the town has been unreasonable since the outset of the situation. “We purchased the facility in April or May of 2005 and three months later the town walked in one day and said your water rates are now one million dollars higher – and pay them within the next several days or we're simply going to shut you down and put you out of business.”

“That is one of the acts we are challenging in court,” Peragine

continued. “We tried our best to negotiate with them. We explained that what they were doing would simply put us out of business, that there's no way a company of our size could ever afford that type of an increase. And it fell on deaf ears. So, we decided we would help ourselves and rather than argue with the town, we would put wells in.”

FDR then received permission to build wells to service its business from the Warren County Health Department. Peragine said his company got the necessary permits from the county government and had incurred about \$134,000 in expenses tied to construction of the wells prior to the town passing an ordinance mandating both water and sewer hookups by town utility customers.

On Feb. 26, the Front Royal Town Council rushed through an emergency ordinance mandating that town water and sewer utility customers hooked up to one service must be connected to the other. Questioned at the time the ordinance was brought before council under “emergency circumstances” bypassing the requirement of a public hearing or a second reading, Town Manager J. Michael Graham called the ordinance a “routine housekeeping” matter involving residential customers.

At the May motions hearing former interim Front Royal Town Attorney Robert Mitchell argued that as a town utility customer, FDR is subject to expired terms and rate changes just like any other town resident or utility customer.

While town officials see the case as one customer seeking special treatment not granted every town utility customer, FDR attorneys argued the company is neither a town resident nor a typical water user – going through four million gallons of water a month as it primarily services health care businesses such as hospitals and nursing homes.

“The problem is that we are singled out, we are the only entity that is subject to this out of town multiplier of a rate that is already higher than everyone else would pay in town,” Peragine said. The company is contending the town has been arbitrary and capricious in the application of water and sewer rates to it.

### **Collateral damage?**

Peragine says his company is in a fight for survival and believes FDR is caught in the midst of a larger power struggle between the town and county and a possible town attempt to balance its budget at the expense of others.

“We really would like to be good

neighbors, we'd like to operate a company here that's a big benefit to the community,” Peragine said following the May hearing. “But we find ourselves caught in a situation where the town has basically become a municipal bully when it comes to water and services. And we're caught, not just in a conflict between FDR and the town, but we're caught in a global conflict that the town seems to be having with the county over many, many issues. And this case, unfortunately, is going to be a case that has a ripple effect to the four corners of the state of Virginia. So, we're caught in that and there's nothing we can do but try and survive.”

Asked for comment following the May hearing, Town Manager Graham, contract attorney Robert Mitchell and current Town Attorney Tom Robinett would say only, “We're waiting for the judge's decision.”

### **State code**

The Virginia Code section focused on by FDR attorneys before the court on May 21 is 15.2-2143 (2007) regarding water supplies and facilities. It states:

“Every locality may provide and operate within or outside its boundaries water supplies and water production, preparation, distribution and transmission systems, facilities and appurtenances for the purpose of furnishing water for the use of its inhabitants; or may contract with others for such purposes and services. Fees and charges for the services of such systems shall be fair and reasonable and payable as directed by the locality. Except in counties, which are not otherwise authorized, a locality may require the connection of premises with facilities provided for furnishing water; charge and collect compensation for water thus furnished; and may provide penalties for the unauthorized use thereof.”

Among the arguments made by FDR attorney Phillip C. Strother, of Richmond, was that Warren is not among the counties designated by state law where such hookups can be required.