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## CABOOM dismissed in mine appeal

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Citizens Against Blasting on Our Miami (CABOOM) has been dismissed from an appeal challenging the Anderson Township Board of Zoning Appeals' June decision to approve an underground limestone mine near the intersection of Round Bottom and Broadwell roads.

Martin Marietta Materials, the mine operator, challenged CABOOM's standing in an appeal before the Hamilton County Court of Common Pleas.

"The court finds an unincorporated association without an actual ownership interest in real property does not have standing to contest a decision of a Board of Zoning Appeals," Magistrate Michael Bachman wrote in his Dec. 23 decision. The 63 individual members of CABOOM, a mix of residents and business owners, remain as appellants pending any further motions, Bachman wrote.

Bachman also ruled that a resolution passed by the Hamilton County Commissioners in July be stricken and not considered part of the administrative record. The resolution prohibits Martin Marietta from tunneling under county-owned Broadwell Road. Martin Marietta's motion to dismiss the Anderson Township Board of Zoning Appeals (BZA) from the case was both granted and denied. Bachman wrote that the BZA shall remain a party to the appeal but shall not be considered an appellee.

He also ruled that the Anderson Township Board of Trustees shall replace Anderson Township as an appellee.

There are several other motions before the court and Bachman will address those in a separate decision, he wrote. Martin Marietta has moved to dismiss the villages of Terrace Park, Indian Hill and Newtown from the appeal, claiming the villages are not directly affected by the proposed mining operation any more than the public at large. The villages and CABOOM, have asked the court to compel the Board of Zoning Appeals to vacate its decision, claiming the Board attempted to rule on various zoning amendments that were outside of its jurisdiction thus making the mine's approval illegal.

The Board of Zoning Appeals voted 3-2 to grant Martin Marietta a special zoning certificate to operate the underground limestone mine and variances to store explosive materials. Martin

Marietta's proposed mine is on 480-acres of property in northern Anderson Township, behind the Newtown Farm Market. The case was brought before the Board of Zoning Appeals in August 2008 and the decision was rendered in June 2010.