

Fort Worth Star-Telegram (TX)

July 27, 2005

Section: Metro

Edition: Arlington

Page: B1

Owners sue to block land seizure

Mark Agee

Star-Telegram Staff Writer

Eleven property owners sued the city Tuesday, seeking to stop officials from taking their land to build a new stadium for the Dallas Cowboys.

The lawsuit alleges that using powers of eminent domain to condemn homes for a football stadium violates various parts of the Texas Constitution, according to papers filed in the 141st District Court in Tarrant County.

"We'll go to the state Supreme Court if that's where we've got to go to win it," said the homeowners' attorney, Glenn **Sodd** of Corsicana, who specializes in condemnation cases. "Forcibly taking my clients' property from them to give to another private property owner — I can't imagine anyone thinks that's fair, or American, or legal."

Arlington City Attorney Jay Doegey said that this area of law is mostly settled. Condemnation cases against Arlington have involved many of the same issues, and the city's power to take property was overturned in none of them, he said.

"We're confident that we'll prevail," Doegey said. "The filing of these lawsuits doesn't change anything."

Sodd is accomplished in stalling high-profile development and in getting significantly more money for condemned property.

In 1998, **Sodd** won millions of dollars from Arlington in a case stemming from condemnations for the construction of Ameriquest Field. His clients lost on the legality of the use of eminent domain, but **Sodd** turned a \$1.1 million offer for 10 residential acres into \$5.1 million.

For the Cowboys stadium, the city has steadily been acquiring parcels of the 200 acres needed, including 11 deals the City Council finalized at its Tuesday night meeting.

Homeowners are being offered market value, as determined by a city consultant, plus \$22,500 and moving expenses. But owners who force the city to use eminent domain powers to condemn their property will not get the \$22,500, officials have said.

According to the lawsuit, the city is violating the law because eminent domain is only legitimate in cases where land is taken for "public use," such as to build roads or schools.

City officials have touted the stadium, in terms of jobs and sales tax revenue, as a public benefit.

The city's view is bolstered by a recent U.S. Supreme Court ruling in which economic development was considered a legitimate public interest justifying the use of eminent domain under federal law.

Sodd said the constitutional issues are the same in state and federal courts.

"But the Supreme Court has decided that cities can do whatever they want," **Sodd** said. "Texas judges really think the words 'public use' mean 'public use.'"

Sodd also argues that even if economic development is a legitimate public interest, Arlington should have to prove that the Cowboys stadium will benefit the city before forcing residents from their homes.

If the court agrees with **Sodd**, Arlington and the Cowboys could have a problem, according to Dennis Coates, an economics professor at the University of Maryland-Baltimore County who has done extensive research into the economic impact of sports stadiums.

"Academic economists not doing consulting work for a franchise or boosters are, for all intents and purposes, unanimous in concluding that stadiums do not generate large gains in economic development, incomes or employment," Coates told the Star-Telegram in an e-mail.

In the stadium campaign leading up to taxpayers' approval of \$325 million in city spending, officials pointed to a study, conducted by a private firm and paid for by the Cowboys, to back up their claims of economic benefit.

The study projected that the stadium could pump \$238 million annually into Arlington's economy and \$7 billion over 30 years.

In the court filing, **Sodd** uses strong language to describe the study, calling it "insufficient and defective," "improper" and a "sham."

Doegey said it shouldn't matter in court what other economists think, as long as the City Council had a reasonable basis for its view.

"Smart people can differ, but the council had evidence and could reasonably believe that the stadium will bring economic impact," Doegey said. "I'm not even sure that issue will matter at all."

John Baen, a business professor at the University of North Texas and an expert in the use of eminent domain, said the case has little chance of succeeding.

"Let's say they succeed and the city can't condemn them — what kind of lifestyle would they have in the middle of a Cowboys parking lot?" Baen said.

Baen said the owners' best hope is to get more money for their property, "but it will be a very, very long road."

Mark Agee, (817) 548-5421 rmagee@star-telegram.com

Copyright (c) 2005 Fort Worth Star-Telegram