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Fighting for home **Settlement allows mall expansion, to the sorrow of residents** *Jennifer Packer Staff Writer of The Dallas Morning News*

Last week's \$3 million settlement with the city doesn't erase the heartache Leonard Prohs and his former neighbors say they feel at having been forced out of their homes to make room for North East Mall's expansion.

"I lost my wife and I lost my house, all within five days," said Mr. Prohs, one of a group of homeowners who filed suit in December 1996 to try to halt Hurst's plans to raze the Richland Park East subdivision, just south of the mall.

Mr. Prohs' wife, Donna, was in the hospital with brain cancer, slipping in and out of a coma, when the city ordered him out of their house so it could be demolished June 6, 1997. Mrs. Prohs died June 10, and her husband blames the city.

"She was totally stressed out by the time we had to file the lawsuit," said Mr. Prohs, who is 55. His wife was 50. She didn't show any symptoms, he said, until the day they went to court in May 1997. "She was really getting frustrated and mad. Losing our home after 27 years pushed her over the edge."

The city stands by its use of eminent domain but gave official word Tuesday night during a city council meeting that it would settle the case to stem mounting attorneys' fees.

"This was the right thing to do based on the individual case," said City Manager Allan Weegar. "We knew how important North East Mall was to the future of the city of Hurst."

The plaintiffs - 10 families - will receive \$3 million plus \$70,000 to help pay legal costs.

The former neighbors contended that the city and North East Mall developer Simon Property Group abused the government's power of eminent domain to take their homes. That law allows cities to condemn land for public improvements. An additional 117 families in the subdivision agreed to buyout

offers.

Mr. Prohs, who lives alone in a Lewisville apartment, isn't the only homeowner in the case who has suffered devastating losses since deciding to take on the city.

Among the 10 couples involved in the lawsuit, three spouses have died and four others have suffered heart attacks. Not all of the surviving litigants fault the city for their misfortunes, but all seven families interviewed for this article said they suffered unnecessary anxiety and pain because of the city's actions.

"You work all your life for a home, then someone says, 'Get out of here, we want your home,'" said Phyllis Duval, who lived in the Hurst neighborhood with her husband, Phil, for 32 years. "We planned on living there until the day we died."

Mr. Duval, who was in the hospital with lung cancer when they had to move out, died a month after their house was scheduled for demolition. Ms. Duval later suffered a heart attack.

Like several of the other litigants, Ms. Duval said she chose to fight the city rather than accept a buyout partly because she couldn't afford to buy another, similar home in Hurst. She now rents a house in Haltom City. But Ms. Duval, 61, said it's never felt like home and she hasn't bothered getting to know her neighbors. "I'm not going to get attached to nobody," she said.

Loretta and Chuck Laue, who didn't think the litigation would last more than a few months, moved into separate homes with their daughters in Bedford and Arlington because neither daughter had homes big enough to keep the couple together.

Mrs. Laue, 63, shared a room with her granddaughter. A third daughter, who had been living with them in the Hurst house, slept on a couch in the living room.

Mrs. Laue said she'd spent 32 years decorating their house in Hurst, using her skills as an amateur artist to paint on the walls. The Laues spent their spare time tending to the garden. The back yard contained swing sets and a playground for their grandchildren.

Knowing that their next home would probably be their last, they didn't want to rush into buying another

one. But after a year and eight months, the couple decided to get a home of their own and bought one in Arlington with their retirement money.

Like several of the other litigants, Mrs. Laue said she refuses to shop at North East Mall.

"The last time I was over there, I could not stop crying," she said.

Leon Lopez, who lived in Richland Park East with his wife, Doris, for 30 years, said the most difficult part of being forced to move was having to take on a 30-year mortgage at 62. Those who sued the city received no reimbursements for their homes when they relocated.

"It was like starting all over," said Mr. Lopez, now 65. "It cut pretty deep into my retirement."

Not least of all is the frustration that the litigants say they still feel. Although the settlement money will allow them to do more than just reconcile their housing debts, they said they're disappointed they didn't resolve their case in court.

"We're not pleased that we settled," said Jeff Molenburg, who lived with his family in Hurst for 18 years before their home was condemned. "We would have won if we'd gotten our hearing."

One of their attorneys, Glenn **Sodd**, agreed. Had the case remained in court, Mr. **Sodd** said, the group would not only have won the case but may also have been able to prompt a change in state law. But, with appeals likely to have been filed by the losing side, that process could have taken up to 15 years, he said.

"What they didn't do is get the Supreme Court to give a 'yes' or 'no'" to Hurst's use of eminent domain, said Mr. **Sodd**, a Corsicana attorney. But, he added, "It did advance this cause. Before these people put up this fight, this was spreading like wildfire all over North Texas. Since all the negative publicity generated by what happened to these people, there haven't been any new projects like this, and several new ones came to a screeching halt. Cities are aware that landowners, even little landowners, have the power to put up long, hard fights."

The Hurst group eventually decided to accept the city's settlement offer because some were in dire

financial straits, he said.

"We were able to come up with a great deal more money than they could have ever gotten for their homes," Mr. Sodd said. But, he said, most of the litigants joined the lawsuit out of principle, not greed.

Had they accepted the developer's buyout offer, they would have received a total of \$1,058,000. That amounted to about 1 1/2 times the homes' appraised value, \$608,000.

The couples weren't the only ones who were glad to see an end to the legal battle.

"It was nearly all-consuming for several years trying to wade through all the legal issues that were brought up," said Mr. Weegar, the city manager. "This allows us just to move ahead and focus in on the [North East Mall] project."

The city has racked up \$790,000 in legal bills so far to defend the case, Finance Director Anita Thetford said.

The mall expansion, scheduled for completion in November 2001, is expected to reap \$1.2 million a year in sales tax revenue and \$2.1 million annually in property taxes. More than 700 new permanent jobs will be created, officials said.

Mr. Prohs, who now travels through Hurst only to visit his wife's grave, take his dog to the veterinarian or go to his bank, said he hopes others learn from the group's experience and work to change the law.

Otherwise, he said, "The city government is going to do this time and time again."

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