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Hurst mall owner ordered to surrender documents in lawsuit

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The owner of North East Mall must turn over internal documents to 10 homeowners who are suing Hurst because of the condemnations of their properties, a judge ruled yesterday.

State District Judge Fred Davis denied a request from Simon DeBartolo Group to withhold all documents regarding a \$220 million expansion of the mall and the construction of a nearby plaza.

Davis said he would decide by next week whether the Indianapolis company will be able to enter into a confidentiality agreement with plaintiffs' attorneys to protect certain documents from being divulged in public.

Although Simon DeBartolo Group, the largest developer of malls in North America, is not named in the homeowners' lawsuit, Hurst used its power of eminent domain to condemn the 10 homes to make way for North East Mall's expansion.

Hurst officials said the condemnations were for a public purpose and for economic development, contending that at least \$7 million in additional sales tax revenue will be generated from the mall's expansion.

In their lawsuit, the homeowners contend that the use of eminent domain violated the Texas Constitution.

Glenn **Sodd**, a Corsicana attorney for the homeowners, argued in court yesterday that Simon DeBartolo Group should hand over documents such as financial projections regarding the mall's expansion, proposed site plans and correspondence between the company and potential anchor tenants detailing negotiations dating to 1985.

Sodd said the documents might prove that Hurst changed its plans for the area in November after realizing that the condemnations were illegal.

"They've gone back and monkeyed with the deal to make it look like a legitimate use," **Sodd** told the judge yesterday.

An attorney for Simon DeBartolo Group countered that that argument was "paranoid" and designed to stoke conspiracy theories about the mall expansion, without gathering more evidence for the civil case.

For 30 years, the company has made and revised plans for the mall's development to ensure that it remains competitive, said Lawrence Fossi, a Houston attorney representing the developer.

"There's nothing nefarious about it, there's nothing insidious about it, there's nothing Oliver Stone about it," Fossi said.

Simon DeBartolo Group has already given the plaintiffs' attorneys written agreements involving Hurst, the developer and the city's economic development corporation, Fossi said.

The company has also handed over documents detailing negotiations between real estate agents representing the company and the homeowners who lived at the site in question, he said. Out of 127 property owners, 117 agreed to sell for more than market value.

By disclosing more documents, which could amount to "hundreds," the company could jeopardize business deals and end up spending thousands of dollars to comply with the order, Fossi said.

"We're not ashamed of anything," he said. "We just want them out of our business."

In his ruling, Davis said the plaintiffs are entitled to the documents according to the legal rules for gathering evidence in civil proceedings.

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