

## The Dallas Morning News

July 5, 1997

### **Hurst property suit moves to federal court City says civil-rights issue raised in landowners' case** *Kendall Anderson Staff Writer of The Dallas Morning News*

FORT WORTH - The case of 10 property owners who are suing the city of Hurst for condemning their homes and land to allow a private developer to expand North East Mall has been moved to federal court.

George Staples, city attorney for Hurst, moved the case from the 17th State District Court in Fort Worth to federal court Thursday because of the case's reference to civil rights, which are under federal jurisdiction. Mr. Staples said he didn't know whether moving the case would help the city's case, saying only that it should be in federal court because it deals with federal issues - specifically, the allegations of civil-rights violations that the property owners' attorneys tacked on to the lawsuit last month.

Attorneys for the nine homeowners and one rental-property owner said Friday that they had to discuss the move to federal court before deciding whether they would fight it.

Federal courts deal with different issues from those handled by state courts, and federal judges are appointed to life terms, unlike state judges.

Terry Jacobson, an attorney for the homeowners, said his legal team hadn't decided whether the move to federal court would help or hurt their case. Asked whether a federal judge - appointed for life - might be less inclined to consider political motivations in deciding the high-profile case, Mr. Jacobson said: "We really haven't even thought about it. . . . It just happened yesterday, and we'll evaluate our options and decide what our response is." The city's removal of the case to federal court took place during a hearing that was scheduled to hear the plaintiff's arguments to compel evidence from the mall developer, Indianapolis-based Simon DeBartolo.

The lawsuit, filed in December by the property owners, alleges that the city of Hurst violated property owners' constitutional rights by condemning property for a private development instead of a public use. The suit was amended last month to include a federal civil-rights statute.

The city has said it was justified in condemning the homes just south of the mall at Loop 820 and State Highway 183 because the mall expansion is an economic development project that will benefit the city through increased sales tax revenues. The city also has said eight of the 10 homes were condemned to make way for a planned public road to serve the mall.

Thursday's action by Mr. Staples kept the homeowners' attorneys from seeking evidence from Mr. DeBartolo that related to the placement of the planned road. Mr. Jacobson and Glenn Sodd, both of Corsicana, have argued that the city intentionally moved the planned road to strike the eight properties in an effort to bolster the city's assertion that the project is a public use.

The homeowners' attorneys have cited an independent road surveyor's deposition testimony in which he said he was instructed to design the road through X-marks on a map that represented the eight properties.

City officials have said Mr. Sodd is misinterpreting the road surveyor's deposition and that they didn't change the road to run through the condemned properties.

The homeowners' attorneys have 30 days to challenge the city's removal of the case to federal court. No hearing has been scheduled in federal court.

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