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Judge to rule on proposed shopping mall expansion in Hurst *Kendall Anderson Northeast Tarrant Bureau of The Dallas Morning*

HURST - Landowners who are suing to stop Hurst from taking their homes for North East Mall's expansion may learn this week whether the city can begin bulldozing.

State District Judge Fred Davis is expected to rule on the city's right to take the 10 properties, just south of the mall. The city condemned the land several months ago, set aside settlements for the landowners and said razing of the homes would begin in May.

Owners of 114 other homes in the Richland Park East neighborhood have already settled with the city. All 124 lots are part of a mall expansion by Hurst and the Simon DeBartolo Group, which owns the shopping center.

The 10 property owners who are suing Hurst contend that the city is violating the Texas Constitution by exercising the right of eminent domain to help a private developer. Cities historically have used eminent domain to expand streets or for other public uses.

Hurst officials say the North East Mall project qualifies as a public use because they will build a street through most of the 10 properties in question.

Most of the 10 landowners packed a Fort Worth courtroom Thursday as their attorney, Glenn **Sodd**, requested that the city not be able to take control of the properties until the constitutionality question has been settled.

Mr. **Sodd** said he needs about seven weeks to put together the constitutional challenge. He said he will look at several out-of-state cases in which, he said, courts kept cities from condemning homes for shopping malls.

"The decision on whether they can do this or not carries vast implications for all residents in Texas," the attorney said. "You are being asked to rule on giving the city the permission to tear down their houses before you've had an opportunity to rule on whether they have the power to do so.

"My clients are not interested in receiving their property back without their homes." Mr. **Sodd**, of Corsicana, also questioned why Hurst has said it must raze the homes by the end of May.

Hurst City Attorney George Staples said the project shouldn't be delayed because the city has strictly followed the law in acquiring the land. "We could have just gotten the order and run with it. But we don't like to do that," Mr. Staples said.

He also said the out-of-state cases cited by Mr. **Sodd** don't apply in Hurst. The best way to compensate the landowners, he said, is with cash. The city has begun tearing down the other 114 homes.

"If we are wrong then we will eventually have to pay property damages to these people. We think we're right in this situation, and that's why we're doing it," Mr. Staples said. "The faster we can get this thing moving, get the road built and get this thing in operation the faster it starts generating sales taxes to pay off this thing. That's the urgency." Buck and Cheryl McElroy, who were among the homeowners during

a court hearing on the matter last week, said the issue doesn't concern money. law in 1991 that gave the Arlington Sports Authority the right to condemn properties for The Ballpark in Arlington. The bill gave the right of eminent domain to all sports authorities and economic development corporations. Hurst's economic development corporation is an arm of the city and oversees economic development tax dollars.

Mr. Staples said the 1991 law redefined eminent domain and the way it can be used.

"The fact that once upon a time the law was different is not relevant," he said. "It may not be a good idea for the Legislature to have granted economic development" to development corporations.

"It may have been a dumb idea, but the law is what it is.

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