

Residents file suit to block Jean Klock Park land sale

By LYNN STEVENS / H-P Staff Writer | Posted: Tuesday, June 17, 2003 12:00 am

BENTON HARBOR -- Berrien County Trial Judge John Fields scheduled arguments for this morning on a request for an order to keep the city of Benton Harbor from selling a part of Jean Klock Park for a luxury housing development.

In a complaint filed Monday in Trial Court's Civil Division, seven area residents asked for a temporary restraining order against the city to stop the sale of 3.8 acres along Grand Boulevard to a firm called Grand Boulevard Renaissance. They also are seeking a permanent injunction that would prohibit the city from ever selling any portion of the lakefront park.

The plaintiffs are Princella Tobias, Clellen Bury, Joseph Shurn, Carol Drake, Harzell Taylor, Norman Stemm and Gladys Peeples-Burks. The complaint identifies them as residents of Benton Harbor, interested area residents and/or owners of property adjacent to the land proposed for development.

"We want to put an end to this nonsense once and for all," said Ronald Taylor, retired Berrien Trial Court judge. "This is about the fourth or fifth time there has been an attempt to do something with this property. We want to put a permanent end to that."

Taylor initially consulted with a group of area residents who opposed the sale called Friends of Jean Klock Park, but he is not part of the legal action. The complaint was filed by lawyer Thomas Fette of St. Joseph.

The complaint alleges that by voting June 2 to sell the 100-foot wide strip for private use, the Benton Harbor City Commission willfully violated the 1917 covenant the Klock family wrote into the deed when they gave the land to the city. And it alleges commissioners violated the terms of the 1917 City Commission's resolution accepting the gift.

Both documents specified that the park was to be used "forever ...for bathing beach, park purposes, or other public purposes; and at all times shall be open for the use and benefit of the public. ..."Private homes would be uses outside the terms of the gift.

Further, the complaint alleges, the sale resolution violated every state and federal grant agreement, because to get the grants the city promised to maintain the entire tract as a public park.

The plaintiffs say the state Department of Natural Resources has determined that selling any part of the park would constitute a conversion of the land from its specified use and would require an

exchange of property of like recreational value, repayment of the grants, or both. The plaintiffs allege that any of those possibilities would harm the city and themselves.

Taylor explained that the group opposed to the sale believes the only way for the city to complete the land sale is to find a way around the covenant and the 1917 City Commission resolution. If the city does break the covenant, they believe the park's only protection from further development would be lost.