



Import

2-front battle over Jean Klock Park

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Published: Thursday, August 7, 2008 3:00 AM EDT

BENTON HARBOR — A fight over whether three holes of a high-end golf course should be built in Jean Klock Park has become a legal war on two fronts. A group called Protect Jean Klock Park filed a federal lawsuit against the National Park Service on Tuesday in U.S. District Court in Washington, D.C. Benton Harbor and the Michigan Department of Natural Resources are also named as defendants. This is the second time in a month that litigation has been filed regarding the Harbor Shores golf course plan. A separate group called Friends of Jean Klock Park filed a civil suit July 8 in Berrien County Trial Court. The seven plaintiffs in the federal suit □ James Duncan, Scott Elliott, Emma Kinnard, Lea'Anna Locey, Nicole Moon, Julie Weiss and Ronnie Whitelow □ live in Benton Harbor and Benton Township. The 52-page complaint says the NPS violated several portions of the National Environmental Policy Act as well as the Land and Water Conservation Fund Act when it approved Benton Harbor and Harbor Shores' plan to convert 22 acres of the city's only park on Lake Michigan into part of a Jack Nicklaus Signature Golf Course. The plaintiffs claim Benton Harbor and Harbor Shores □ a nonprofit development consortium of the Alliance for World-Class Communities, Cornerstone Alliance and the Whirlpool Foundation □ have concealed information about the environmental impacts that would result from construction and maintenance of the golf course. They further say the developer has not fully disclosed potential alternatives to building in the park. "Extensive excavation and stabilization of the dunes would be necessary to plant golf course features," said plaintiff Julie Weiss in a news release. "In a plan which describes wetland fill to the last cubic yard, there is no dissection whatsoever of the impacts to the dunes, the signature landscape of Lake Michigan's eastern shore. Once they're gone, they're gone forever." The plaintiffs also say Harbor Shores never completed an environmental impact statement or listed all the threatened species, including the eastern box turtle, which live in Jean Klock Park. Plaintiffs contend that the appraisal price of \$900,000 for the 22 acres is low by as much as \$15 million. The appraisal was based on the requirement that land in Jean Klock Park can only be used for recreation. The full residential value was not considered, according to documents from Harbor Shores. Some 38 acres spread among seven parcels in other areas of Benton Harbor, Benton Township and St. Joseph have been offered as mitigation for the 22 acres in Jean Klock Park. The plaintiffs say the identified land does not come close to compensating the public for the acreage lost near Lake Michigan. "The law is very clear," said LuAnne Kozma, Michigan director of Defense of Place, a San Francisco-based park preservation organization. "This lawsuit has national implications for places everywhere that matter, like Jean Klock Park." Wendy Dant Chesser, a Harbor Shores trustee and president and CEO of Cornerstone Alliance, was not surprised by the filing. "Just last week, members of the Friends of Jean Klock Park stated they would seek an injunction to stop this project, and we have anticipated a lawsuit would be filed challenging the decision by the National Park Service," she said. Chesser said the approval process has provided a great deal of information about Harbor Shores to the public. Some 400 letters about the project were sent to Benton Harbor during a 45-day public comment period in April and May, and more than 80 percent of those commenters supported Harbor Shores. "The hundreds of public meetings, the six weeks of public comments and the depth of media coverage about this project have allowed everyone ample opportunity to ask questions and share their views," she said. "It is clear the overwhelming majority of residents support the project, and a small handful are now choosing to pursue legal action. This will only delay benefits to the entire area." The course, which is the centerpiece of the 530-acre Harbor Shores housing and resort

development, will be open to the public but fees will range from \$65-\$225 per round. The plaintiffs say that means the course will effectively be off limits to most members of the public. Benton Harbor City Manager Richard Marsh said the project is in the best interest of the city and its residents. "As the owners of Jean Klock Park, we want to see the Harbor Shores project move forward in order to provide economic and job opportunities as well as increase the tax base for our community," Marsh said in a news release. A separate lawsuit was filed against Harbor Shores and Benton Harbor on July 8 in Berrien County Trial Court. The plaintiffs in that suit, Carol Drake and Clellen Bury representing Friends of Jean Klock Park, allege that the city and developer are violating a prior court settlement that forbids further privatization of the park. A preliminary hearing is scheduled for Aug. 25. Drake said Wednesday they were planning to file a request for an injunction today to prevent any construction in the park while the lawsuit is pending. Chesser said the litigation will not necessarily prevent Harbor Shores from reaching its goal of opening the golf course next summer. "Nothing's given me any indication, providing we have cooperative weather this fall and next spring, that we can't continue with our current plan," Chesser said. Contact Kevin Allen at kallen@TheH-P.com.

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