



Import

Golf course suit starts Friday

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Published: Tuesday, August 19, 2008 3:00 AM EDT

NILES — One of two legal challenges threatening Harbor Shores' golf course plan for Jean Klock Park is scheduled to arrive in a Niles courtroom Friday, and the outcome could range anywhere from dismissal of the suit to a temporary halt to work in the lakeside park until a trial is held. The main point of contention in the suit is whether Benton Harbor's plan to lease part of the park for a high-end public golf course qualifies as the type of public recreational use for which the land was donated to the city 91 years ago. Carol Drake, vice president of Friends of Jean Klock Park, and Clellen Bury, a Benton Harbor resident, filed the suit July 8 in Berrien County Trial Court. Judge Scott Schofield will preside over the case. The suit alleges that Benton Harbor is violating a settlement it made in 2004 after Drake, Bury and four other citizens sued the city for selling 4 acres of Jean Klock Park for a residential development on Grand Boulevard. Drake and Bury say the city is violating that settlement by agreeing to lease 22 acres of the 73-acre park for three holes of a Jack Nicklaus Signature Golf Course. The course is the centerpiece of the Harbor Shores development planned to cover 530 acres in Benton Harbor, Benton Township and St. Joseph. Drake and Bury have filed a motion for a preliminary injunction to prevent construction at Jean Klock Park while the lawsuit is pending. Benton Harbor and Harbor Shores have both filed motions to have the case dismissed. Benton Harbor has hired the law firm Miller, Canfield, Paddock and Stone and is represented by Pamela Enslin, Brad Sysol and Dari Craven from the firm's Kalamazoo office. "We believe it (the lawsuit) does not have any legal merit," Enslin said. Harbor Shores has hired the law firm Dickinson Wright. The developers are represented by lawyers Dennis Archer, Michelle Thurber Czapki and Tammy Helminski from the firm's Detroit office and John Cameron from its Grand Rapids office. Archer grew up in Cassopolis and was mayor of Detroit from 1994-2001. Drake and Bury will be represented by Scott Howard and Michael Grant of the Traverse City law firm Olson, Bzdok and Howard. Possible outcomes Enslin and Howard said Friday's hearing could result in one of several possible outcomes. Schofield could side with Benton Harbor and Harbor Shores and dismiss the case. He could decide the case should continue toward a trial, with or without an injunction on work in the park in the meantime. Or Schofield could decide not to make a decision Friday if he decides he needs more time to consider both sides' arguments. "It's a big maybe," Howard said. Drake and Bury, along with Gladys Peeples-Burks, Joseph Shurn, Norman Stemm and Princella Tobias sued Benton Harbor in 2003 for what the plaintiffs said was a violation of the conditions John and Carrie Klock set forth when they conveyed the parkland to the city in 1917. The deed from the Klocks reads that the land "shall forever be used by said City of Benton Harbor for bathing beach, park purposes or other public purpose; and at all times shall be open for the use and benefit of the public" The plaintiffs and the city settled the suit in January 2004, allowing the land sale in exchange for an injunction against further privatization or conversion of Benton Harbor's only park on Lake Michigan. Former Judge Lynda Tolen, who retired Aug. 1, presided over the case in 2003-04. A federal lawsuit against Benton Harbor, the Michigan Department of Natural Resources and the National Park Service was filed Aug. 12 by a separate group called Protect Jean Klock Park. That group consists of seven Benton Harbor and Benton Township residents who say the city, DNR and NPS violated environmental regulations in approving the Jean Klock Park lease. Contact Kevin Allen at kallen@TheH-P.com.

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