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Ruling leaves North Shore plan unclear

Lawyers for both sides agree Tacoma City Council will decide golf course land-use issue

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Despite the recession, a developer remains as committed to building hundreds of homes on a Northeast Tacoma golf course as it was when it submitted its controversial application two years ago, according to the developer's attorney.

But whether land-use rules will allow North Shore Golf Course to be turned into an 860-unit housing project is still unresolved.

A judge's ruling earlier this month offered little or no clarity.

Kitsap County Superior Court Judge Russell Hartman sided partly with the City of Tacoma, which sought to block the development. The judge ruled that two 1981 agreements restricting the property for golf or open space are valid.

But Hartman also stressed the right of defendants to seek a change in the golf course's use under city regulations and land-use laws.

Plans to redevelop the golf course now must win approval through the city's standard land-use process.

"Neither agreement took away their right to request a change," said Elizabeth Pauli, Tacoma's city attorney. "Whether any or all of the golf course can be developed is the exact question that is being worked on."

Aaron Laing, attorney for Northshore Investors LLC which wants to purchase and develop the property, said he expects the application will be decided this year.

Both Pauli and Laing said the fate of the land-use issue ultimately rests with the Tacoma City Council. Laing said the council will rule in its "quasi-judicial" role, similar to handling a request for rezoning a property.

Laing said Hartman's ruling favored his company in part by saying the city is authorized to change the 28-year-old land-use restrictions.

"It was a good ruling for the city and a good ruling for us," he said.

Hartman, a visiting judge, handled the case because all available Pierce County judges recused themselves based on potential conflicts of interest.

The city is working on an environmental review of the application. Public review, comment and public hearings will take place during the spring and summer.

The city filed the lawsuit to stop plans to redevelop the golf course. Defendants included Northshore Investors as well as the current owners of the golf course, North Shore Golf Associates Inc., and Heritage Savings Bank.

Paul Moomaw, the golf course owners' attorney, said Hartman ruled against the city's position that existing restrictions prohibit development of the golf course in perpetuity. Hartman ruled that any plans to change the property's use must be decided under land-use laws.

"It was a good ruling all the way around," Moomaw said.

In early 2007, Northshore Investors submitted an application to transform the golf course into a development of some 370 single-family houses and 490 town houses.

Many Northeast Tacoma residents were angered. Neighbors, including the community group Save NE Tacoma, complained the development would crowd roads and schools while plowing under 115 acres of public open space.

The day after the application was filed, the city enacted an emergency moratorium on such projects, known as planned residential developments.

The city first said the application was incomplete and subject to the moratorium. A hearing examiner told the city to process the application; the city appealed the examiner's decision but later dropped the appeal after a mistake by the city attorney's office.

The golf course owners and prospective buyers later sued Tacoma for more than \$22 million, claiming city officials illegally singled out the application and strategized to stop the project. The city denied the allegations and the lawsuit is pending.

John Lovelace, president of Save NE Tacoma, called Hartman's decision "a victory for us."

Because Hartman ruled the 1981 restrictions protecting the golf course were valid, "we feel we've won two-thirds of the battle," Lovelace said.

"We still feel comfortable ultimately those mandates will remain in place," he said. "Do we know that for a fact? No."

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