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'Fight to the end'

## Businesses, residents file suit against village

by ANDREA HORWICH

GENEVA—Three West Dundee residents and two Main Street Business owners have joined in a lawsuit against the Village of West Dundee and the Homart Development Company in a complaint filed Wednesday in the Circuit Court of Kane County.

They are former West Dundee Village Trustee Vernon Sutin; JoAnn and Paul Fritz; East Dundee resident Linfred Steurer, owner of L&H Sewing and Vacuum Center, East Dundee; and Dundee Furniture and Rug Center, Inc., West Dundee, own-

ed by Bernard Frankle.

The complaint was filed Wednesday by McHenry attorney Janice Johnston, one of three attorneys

representing the plaintiffs.

Three objectives are listed on the complaint: that the court declare the annexation agreement between the village and Homart null and void, issue a preliminary and permanent injunction against the defendents to prevent implementation of the annexation agreement and halt con-struction of Homart's Spring Hill Mall on the former D. Hill Nursery site, and "grant further relief the court deems just and equitable."

In a second count, the plaintiffs request a complaint for quo warranto against the village, and the village

president and five trustees, "calling upon each and every defendent to justify and state by what right or authority or warranty they adopted the ordinance and annexation agreement..."

Village President Thomas Warner; Trustees Richard Kraft, Larry McManaman, Larry Brody, and Leon Streeter; former Trustee Jack Dobler; Homart; the D. Hill Nursery Company; and the American National Bank and Trustee Company of Chicago are named as defendents—the latter three because of their interest in the property.

Steurer said Tuesday his objective in joining the suit is "stopping it (the shopping center) until we are

satisfied.'

The concerns he voiced mainly dealt with traffic that will be generated by the development, and he indicated that more provisions for handling the traffic should have been included in the agreement between West Dundee and Homart.

"There should be another bridge through the Dundee area," he said, adding that "there should be more than four lanes (when Route 72 is

widened.)"

He further noted that an environmental impact study on the shopping center "is definitely in order." 10-19-78

Steurer also said he was concerned about possible future developments on the Homart property, as did Sut-

"It's going to be larger," Sutfin, who resigned from the village board last month, said. "All kinds of things are going to come in because of it." He said that other parties are "scrambling for the land.

"This is as bad as the shopping

center, maybe worse."

Rather than altering the agreement with Homart, Sutfin said he would prefer to stop the entire development. He said he doesn't know how his position as a trustee at the time the annexation agreement was approved will affect the outcome of this suit.

Sutfin also said he did not know at the time of his resignation that he would be entering into the suit.

"It (the suit) had been talked about, of course. I knew there was an impending suit. I didn't particularly know at the time I'd be a plaintiff, but that's the way it worked out."

Steurer emphasized that the plaintiffs intend to "fight this thing to the end, and we do expect it to take

years."

He said other parties are welcome to join as plaintiffs, and that he expects some to do so as public in-

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## Suit filed against village

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Some parties have contributed financially although they have not joined as plaintiffs, Steurer said, but of those, "some don't want to be named." Although the plaintiffs are seeking more contributions, "we do have enough to carry us for quite a ways."

The East Dundee Village Board voted Monday night to defer discussion on joining the suit until after the trustees have met with Richard Welcome, Homart's former project director until his recent replace-

East Dundee has been seeking monetary compensation from Homart in return for the effect that increased traffic will have on that village. The state has recommended the widening of Route 72, including that portion in East Dundee. East Dundee officials have acknowledged

they are seeking funds for off-street parking to compensate their merchants if parallel parking is removed from Main Street.

Welcome, who has been working with the villages since Homart first approached them five years ago, had no comment Wednesday because the company's legal counsel has not had an opportunity to review the complaint.

Homart attorney Jack Siegle will be vacationing until next week and was unavailable for comment.

According to West Dundee Village President Warner, the village was not taken by surprise. "I think we expected it," he said Tuesday.

The only trustees not named as defendents are Donald Cress and Cal Grafelman, both of whom were appointed to the board after the annexation agreement was approved.

Warner noted that the agreement

provides for Homart's counsel to defend the village in connection with the development.

At the present time, though, he said the village has no reason to file a countersuit. "We have annexed property and granted approval to do preliminary grading," he said, but no building plans have been approved yet. "The plans have to conform to our ordinances," he stated.

So far, all steps taken by West Dundee in relation to the shopping center also have been taken by Carpentersville.

"My own personal feeling is that it's going to be very costly to a lot of people—the people bringing the suit," Warner said.

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The complaint alleges that the village did not follow statuatory procedure regaring public notice of annexation hearings, an allegation that Warner denied.

Other allegations are that the agreement "was made in ignorance of the development plan's impact on the village and its citizens..." and that the plaintiffs' "constitutionally created and protected rights" under the Illinois and United States Constitutions are abridged by the agreement.

The elimination of parking for Main Street customers; use of village monies to provide utilities including roads, sewers and water for the development; the provision that the village will reimburse Homart for road improvements; and the requirement that the village will improve territory which lies in Carpentersville are among the specific complaints.

The annexation agreement provides that Homart will finance sewer and water through bonds or special assessment in the event that the village cannot sell the bonds on its own. It also provides that the village will being will be a sales tax returns for a period not to exceed 12 years, or in the amount not to exceed 50 per cent—whichever comes first. A separate annexation agreement has been entered into with Homart by Carpentersville.

## DAIPC funds axed

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that Caspers has been instrumental in developing the DAIPC ordinances but said "it is much more of a conservative money- and time-saving proess to do it they way they do it," ause it eliminates the expense time of redoing the ordinance has been completed.

Tuesday also referred to rrent efforts to help work ctional boundary betthe villages of East nd Sleepy Hollow.

In has not proposal boundary and East

ville rew and ce. vices" for Carpentersville.

This is the second year DAIPC has applied for HUD funding and has had a full-time staff planner. Its program for this year has been expanded to include eight areas, and the representatives have notified the villages that they intend to hire an assistant or student intern.

This year's program items are intergovernmental agreements, including jurisdictional boundaries; transportation, including a two-year program; open space; business district improvement; historical preservation, including a model ordinance; residential studies; land use, including a model planned unit development ordinance and an annexation procedure ordinance; and a twice-yearly newsletter.

Trustees Srajer, Jeanne McFadden, Raymond O'Claire and Pau's lster voted to deny funding; with tke, Canaday and Brettman against the measure.

10-19-78