

Fort Worth Star-Telegram

Updated: Friday, Feb. 13, 1998 at 23:16 CST

Judge voids Westlake breakup

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WESTLAKE -- Ross Perot Jr.'s Circle T Ranch was never legally disannexed from Westlake and must be developed under that town's authority, not Fort Worth's, state District Judge Fred Davis ruled yesterday.

His five-page opinion was cheered by Westlake residents and town officials. But attorneys for Perot's Hillwood Development Corp. and Fort Worth called any celebration premature, saying that they will wage an aggressive effort to have the decision overturned.

In his judgment, Davis voided the Westlake Board of Aldermen's move [last year to disannex](#) 70 percent of Westlake's land, including Perot's 2,500-acre Circle T Ranch and some of the aldermen's properties, and to cede the land to Fort Worth. Davis' order also bars Perot from starting construction at the ranch unless Westlake grants approval.

"The purported disannexations and releases of extraterritorial jurisdiction by Westlake on May 2, 1997 are void," the ruling states. "The land ... remains within the corporate limits of Westlake."

Davis agreed with Westlake's arguments that the disannexations violated state law because the action was within 90 days of a municipal election, and because Westlake was left as "islands of incorporated land."

Davis also threw out the May 9 move by the lame-duck Board of Aldermen to ratify the disannexations, ruling that newly elected aldermen had not been seated before the action was taken. Davis could not be reached to comment yesterday.

"This is wonderful," said Scott Bradley, the contested mayor of Westlake. "The sweet thing about this is that the scheme hatched by Perot and his people is coming unraveled. You can't just shake up a whole town like this to develop a ranch."

Alderman Fred Held, the only board member to vote against the disannexations last year, called Davis a "hero."

"I applaud Judge Davis for taking the approach he has in realizing the difference between right and wrong, which renews my faith in justice after a year of getting beaten down," Held said.

The ruling in Tarrant County district court is a major blow to Fort Worth, where officials have viewed Perot's ranch as a prize that could reap the city tens of millions of dollars in tax revenues annually.

For years, Fort Worth officials have looked on with consternation as glitzy shopping malls and high-dollar residential developments have sprouted in fast-growing suburban communities. But they viewed the Circle T as a chance for Fort Worth to claim such an economic windfall.

Perot attorney David Bryant and Fort Worth attorney Dee Kelly Jr. said they plan to file notices of appeal early next week.

"We will respect the court's ruling while we appeal," Bryant said. "However, we believe that the ruling was in error and that the disannexations should be upheld. The trial court relied on a statute that went back to the 1800s, and it has no precedent in Texas history."

Perot officials forecast last year that the planned Circle T development -- which would include upscale homes, apartments, a regional shopping mall, golf courses and offices -- would have a value of \$3 billion when completed within 20 years.

"I'm sure the city will look at appealing this decision," Fort Worth Mayor Kenneth Barr said. "I'm sure we'll study our options and look at what the ramifications are."

But Fort Worth Councilman Chuck Silcox said that he has been concerned "from the start" that Perot's push to have the Circle T disannexed from Westlake and handed to Fort Worth was a "problem situation."

"My thought was that it would be great to have that property in the city," Silcox said. "The problem I had with that was that I believe we had a renegade council up there [in Westlake] that I think the Perot people were involved with and influenced them to do that because they wanted their property in Fort Worth. ...

"We need to grow, but not by being greedy," Silcox said.

Davis' ruling is the first to solely examine the merits of the disannexations, which plunged Westlake into political and legal turmoil and have kept residents wondering whether their town exists.

Until now, court decisions have centered on whether Bradley is mayor. In November, the 2nd Court of Appeals overturned state District Judge Bob McGrath's ruling that Bradley was mayor at the time of the town's dismantling. Bradley has appealed that decision to the Texas Supreme Court, which has yet to rule.

Although Westlake won in Davis' court on central issues of the disannexation case, Davis denied several of the town's claims, including arguments based on the assertion that Bradley was the town's proper mayor and had vetoed the disannexations, and that the aldermen who approved the actions violated conflict-of-interest laws.

"Those claims are hereby dismissed with prejudice and the Motion for Summary Judgment of Westlake is denied to the extent that it sought relief on these grounds," the order states.

Davis' decision, which was rendered in Westlake's lawsuit against Fort Worth, came nine months after four aldermen, assisted by a Perot attorney, disannexed the ranch and other properties, leaving the town in fragments.

On the night of the disannexations, appointed Mayor Dale White shrugged and said, "This is Perot Town now."

The next day, Fort Worth called an emergency meeting to place the ranch and the other properties in its jurisdiction. But Westlake voters elected a new board majority that decried the move and quickly filed lawsuits to recapture the severed properties.

Former Alderman Al Oien -- who along with Howard Dudley, Jerry Moore, Carroll Huntress and White approved the disannexations -- declined yesterday to discuss Davis' ruling in detail.

But, Oien commented, "Everybody makes mistakes, and we'll correct it sooner or later."

Davis' ruling apparently does not affect the disannexation of the Solana office park, which was handed to Southlake after the election.

Bradley and Westlake's attorneys said they will file amendments to motions in their lawsuit against Southlake early next week in hopes of reclaiming the corporate office development, which provided 99 percent of Westlake's revenue.

It was unclear whether the ruling applies to portions of the Circle T that were transferred to Roanoke.

"Obviously this does not determine our cases with the other cities, but we'll certainly pursue those cases to bring those to a conclusion," Bradley said. "This is the best I've felt about our chances since this started."

For Southlake, the most important question will be answered by the Texas Supreme Court, Southlake City Attorney Allen Taylor said.

"The biggest thing we've been waiting on is what the Texas Supreme Court will do regarding the Scott Bradley issue," he said.

Terry Morgan, a land-use attorney for Westlake, called the town's dismantling "the most unusual case in my 20 years of practicing in this area."

If the judge had ruled differently, Morgan said, the Westlake disannexations could have become a "blueprint where elected officers could explode a town."

"The ruling vindicates the community," he said. "A few individuals can't effectively dismantle a town."

According to testimony by White and the former aldermen, Perot's aides proposed the disannexations and provided legal advice to the aldermen about their strategy.

Westlake attorneys repeatedly claimed that the Circle T disannexation did not comply with state laws restricting boundary changes within 90 days before an election, calling that argument their "silver bullet." The Board of Aldermen severed the Circle T on May 2, the night before Westlake's town election.

Bryant has questioned whether the 90-day limit applies to towns because state statutes use the term "ward" instead of town, and no case law interprets that meaning. In a hearing, Westlake attorney Jim Morris countered, "There is no case law because it's so clear."

Since the disannexations, the Fort Worth Plan Commission has given initial approval to a conceptual development plan for the Circle T.

Two weeks ago, one of Perot's companies filed plans with Fort Worth to develop a 96-acre chunk of Circle T Ranch along Texas 114 just west of Precinct Line Road.

The preliminary plat -- the first step in developing raw land -- was on the agenda of a city planning board and was slated to be considered Thursday, Fort Worth officials said.

But a city planner said that Fort Worth's lawyers had already advised officials that no final decisions could be made because of the legal dispute.

"We've been told not to approve or process any final plats until the litigation is resolved," Chief Planner Kevin Lasher said.

Lasher, who had not seen Davis' ruling late yesterday, said that consideration of the development plans will probably be postponed. Lasher said the court ruling would "make everything else invalid."

Because of Davis' ruling, Bryant said, Hillwood will take its development plans to both Westlake and Fort Worth.

"We will go forward to get the necessary approvals in Fort Worth and Westlake," he said. "If the decision is reversed, Hillwood would not have to go back, start over and get all of its approvals in Fort Worth from scratch."

Staff writers Jack Z. Smith and Bob Mahlburg contributed to this report.
