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Dallas Court Rejects Developer Billingsley's Carrollton Airport Efforts

By Mark Curriden, JD
Senior Writer for *The Texas Lawbook*

(April 11) – The Dallas Court of Appeals has rejected a complex legal effort by real estate developer Henry Billingsley to shut down a residential air park community in Collin County so that he could turn the airport and its land into a shopping and office center.

Justice Michael O'Neil, writing for a unanimous three-judge panel, ruled that a Carrollton city officials, with the help of Billingsley and his business associates, passed an unconstitutional ordinance in 2008 in an elaborate attempt to improperly evict homeowners of the Air Park Estates in order to develop the land for more profitable purposes.

The 50-page opinion “is an important vindication of the sanctity of individual property rights in Texas, and homeowners throughout the state should regard this as a victory,” said Christopher Kratovil, a partner at the Dykema law firm, which is representing the Air Park homeowners.

“With this opinion, the Court of Appeals has stopped a wealthy private developer and the City of Carrollton from working together to seize my clients' property through a cynical and unconstitutional scheme,” Kratovil said.

“The Air Park Estates community has existed for decades, but this private developer and the City of Carrollton were scheming to destroy the neighborhood without so much as paying its homeowners just compensation for their valuable property,” he said.

Lawyers for the defendants did not respond to inquiries seeking comment about the court decision.

David Noell and his father Milton developed Air Park Estates in the 1960s as a residential community with a runway, taxiways and facilities for homeowners to keep their personal small airplanes at their homes. The community, which was developed in a once extremely rural part of Collin County now bordered by Plano, Carrollton and Hebron, is now in the middle of one of the fastest high-income growing neighborhoods in North Texas.

Starting in 1983, according to court documents, Billingsley, who is the son-in-law of Trammel Crow and brother-in-law to Harlan Crow, started buying parcels of property from a handful of homeowners who wanted to sell.

In 2003, Billingsley had purchased enough property that he controlled the majority of votes for the community's zoning committee. Court records show that Billingsley immediately kicked all the remaining homeowners off the zoning board and replaced them with himself, his wife and one of his employees.

Four years later, Billingsley started moving forward with a 28-acre multi-purpose commercial development that would have included more than 500 multi-family residences. The building site was where the landing strip is today.

“Billingsley could not develop his ‘Willow Park Village’ without first destroying the homeowners easement rights in the Air Park’s landing strip and taxiways,” according to documents filed by the homeowners. “Since Billingsley could not unilaterally terminate the homeowners’ easements, he devised a clever but improper scheme to accomplish through illicit means what he could not accomplish otherwise.”

In 2008, Billingsley worked with Carrollton city leaders to annex a small portion of the runway and surrounding areas, according to court records.

Later that same year, Billingsley and his lawyers lobbied Carrollton officials to adopt a new “nuisance” ordinance that placed new severe restrictions and operational burdens on airport runways and taxiways – an ordinance that only applied to Air Park.

Court records filed by the homeowners say that even as Billingsley’s lawyers were drafting the ordinance for Carrollton officials, Billingsley was telling others that he had no intention of bringing the small airport into compliance, which meant the runway and its easements would be shutdown.

“In other words, Billingsley helped draft and pass the airport ordinance precisely so he and his companies could violate it and thereby achieve their real goal of ending aviation operations at Air Park airport, with disastrous consequences to the real property rights, businesses, lifestyle, and family finances of the homeowners,” Katrovil wrote in his brief to the court of appeals.

Billingsley went so far as to legally indemnify Carrollton city leaders in case the ordinance resulted in litigation.

The Air Park homeowners sued in 2009 and a jury ruled in their favor on all counts, awarding \$2 million in damages. A Collin County judge issued a temporary restraining order preventing Carrollton from enforcing the ordinance on the homeowners.

The Dallas Court of Appeals opinion favored the Air Park homeowners’ position on all counts, ruling that the ordinance and its enforcement was a violation of the homeowners’ rights to due process.

The case is expected to be appealed to the Texas Supreme Court.