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Water district told to pay developer \$36.4 million

Cook County judge finds that agency wrongfully blocked alley, interfered with high-rise project

January 17, 2013 | By Jennifer Delgado, Chicago Tribune reporter

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Cook County taxpayers are on the hook after a judge ordered a government wastewater agency to pay \$36.4 million to the developer of a Magnificent Mile luxury condo building for delaying the project by 18 months.

The Metropolitan Water Reclamation District of Greater Chicago intentionally interfered with the development of the Ritz-Carlton Residences when it blocked an alley needed by [construction](#) and demolition crews, according to an order by Cook County Judge Kathleen Pantle. The alley is between the district's headquarters and the upscale condo tower.



(Tribune illustration)

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"The evidence is overwhelming that the (Water Reclamation District) began to interfere with the (developer's) right to use the alley in 2005, and that this interference continued until ... August 2008," Pantle wrote in her Jan. 4 order.

The water reclamation district said the court "erred in its decision" and vowed to appeal the ruling.

"MWRD and its taxpayers are not responsible for any losses the developer allegedly incurred from delays in the property's development," the agency said in a statement. "MWRD's actions to prevent the improper use of its private property were appropriate."

The dispute began in 2005, when the water reclamation district placed a locked gate around the entrance of an alley it owned, according to the judge's order.

Prism Development Co. had easements, meaning it could use the private alley, and it planned to start demolition in March 2007. But the company  couldn't access the alley until the court issued a preliminary injunction in August 2008 forcing the district to remove the gate.

Construction and demolition started soon after, but the delay, the developer contended, contributed to increased construction costs  and loss of condo sales from potential buyers, according to the order.

The water reclamation district argued that the developer didn't expect to begin demolition work for the upscale development in March 2007.

It also claimed that the developer did not buy all the property it needed for the project until April 2008 and that the gate was erected with the consent of the prior owner of the building. The judge disagreed.

The developer sought \$66.4 million in damages, but it believes the \$36.4 million judgment is a "significant award , which will help compensate our clients for its considerable losses," said David Gustman, an attorney representing Chicago-based Prism Development.

"It's not everything we wanted, but it will help " he said.

Tenants should soon be able to move into the 40-story building, but the developer is still in a dispute with the building's original owner, the Terra Foundation for American Art, Gustman said.

Along with 89 condos and floors for offices, a Tommy Bahama store and a Loft store are slated to open in the building at Michigan Avenue and Erie Street.

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