

Williamson-Travis Counties MUD No. 1 Lawsuit Information

Cause No. D-1-GN-20-003773

Linda Fabre and Matthew Fabre, Trustees for the Matthew J. Fabre and Linda R. Fabre Revocable Trust, Plaintiffs v. Williamson Travis Counties Municipal Utility District No. 1, Anderson Mill West Neighborhood Association, Inc., Catherine Franke, Art Medrano, Beth Jones and Megan Dudo, Defendants; In the 53rd Judicial District Court of Travis County, Texas.

Current Status:

Case dismissed
(see attached order)

Frequently Asked Questions

(see Glossary of Terms on Page 4 for definitions)

What was this lawsuit all about and why was the District being sued?

Through this lawsuit, the plaintiffs asked the court to declare the District's deed restriction (also known as restrictive covenants) enforcement rules invalid. Specifically, the plaintiff made the following claims:

- The District does not have the authority to enforce deed restrictions because the Texas Water Code provisions giving the District that authority is unconstitutional.
- The District does not have the authority to assess fines for deed restriction violations.
- The District does not have the authority to place deed restriction violation fines on resident's utility bills.
- The Anderson Mill West Architectural Control Committee (ACC) has no legal authority.
- The District has no authority to establish the beautification fund or expend funds from it, and that funds paid to the Anderson Mill West Neighborhood Association should be returned to the District's general fund.

The plaintiffs sought declaratory judgment by the court, an injunction, and an award of attorney's fees from the Court.

If the case had not been dismissed, what would this have meant for the District.

The following are some of the possible consequences if the plaintiffs had prevailed on one or more of their claims:

- The District may be prohibited from enforcing deed restrictions completely. If the District were prohibited from deed restriction enforcement through fines, the District may cease any deed restriction enforcement due to the inefficiency and high cost of enforcement by litigation. For the majority of the District, where no mandatory homeowners associations exist (all of Anderson

WTCMUD No. 1 Lawsuit Information

Mill West and Hunter's Glenn 2), there would be no alternative methods of enforcement other than litigation by individual homeowners.

- The Beautification Fund would no longer exist (see glossary of terms).
- Because the City of Cedar Park no longer requires building permits for construction in the District, in the absence of an architectural control committee, the only restriction on building on a majority of the lots in the District (all of Anderson Mill West and Hunter's Glenn 2) would be through litigation of deed restriction enforcement by individual property owners.

Does the dismissal by the court mean the case is over? What happens next?

The plaintiff has the opportunity to appeal the dismissal to the Third Court of Appeals in Austin. If the case is not appealed, then the dismissal becomes final.


How much money has been spent by the District defending this lawsuit?

Since July of 2020, when the case was filed, legal fees have cost the District a total of \$99,624.34. If the case is appealed by the plaintiff, there will be ongoing costs.

Since the case was dismissed, is there any chance of the District recouping its costs?

The District submitted a request that the Court award attorney's fees for the cost of defending the lawsuit. This is a discretionary decision by the trial judge. In the order of dismissal, the judge did not award fees to the District, therefore we do not anticipate being able to recover the expenses of this lawsuit.

Lawsuit Timeline and Key Events

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- July 21, 2020:** Lawsuit filed by Plaintiff (Fabres, individually)
 - Aug. 21, 2020:** Defendant's Original Answer: General denial and counterclaim
 - Sept. 28, 2020:** Defendant's First Amended Answer and Amended Counterclaim
 - Nov. 3, 2020:** Plaintiff Linda Fabre elected to District Board of Directors
 - Feb. 22, 2021:** Plaintiff (Fabres individually) amend lawsuit asking for declaratory judgment and injunction to stop District from fining residents for deed restriction violations and use of beautification fund, and declare ACC has no legal authority.
 - April 6, 2021:** Defendants' plea to the jurisdiction, motion to dismiss, and alternative motion to abate.
 - May 2021:**
 - 20th:** Plaintiffs (now the Fabres individually and as trustees for the Fabre Revocable Trust) amend the lawsuit a second time adding the other four Board members as defendants and requesting the court declare that Section 54.237 of the Texas Water Code is unconstitutional.
 - 25th:** Original court hearing date, postponed due to Plaintiff's May 20th amendment.
 - July 16, 2021:** Defendants' plea to jurisdiction (similar to 4/6/21), plus motion for Summary Judgment
 - August 2021:**
 - 17th:** Plaintiffs (now the Fabres as trustees for the Fabre Revocable Trust, but not individually) amend the lawsuit a third time adding arguments that the District and individual Directors were acting arbitrarily and capriciously and requesting beautification funds previously distributed to AMWNA be returned to the District. Plaintiffs also filed Motion for Partial Summary Judgment.
 - 24th:** Court hearing on Defendants' Plea to the Jurisdiction and Plaintiffs file supplement to their Motion for Partial Summary Judgment.
 - Sept. 29, 2021:** Plaintiffs submit additional summary judgment evidence. Defendants file Objection and Motion to Strike Supplemental Personal Declaration of Linda Fabre as untimely.
 - Oct. 5, 2021:** Case Dismissed--Order Granting Defendant's Plea to Jurisdiction and Dismissal with Prejudice.

Glossary of Terms:

Beautification Fund: Fine monies collected for deed restriction violations are placed in the District's Beautification Fund.

Declaratory Judgment: An official declaration from the court.

Dismissed with Prejudice: Case is dismissed permanently and cannot be brought back to court.

Injunction: A court order restraining a party from certain actions.

Motion to Abate: Asks the court to temporarily suspend a lawsuit from proceeding.

Summary Judgment: Ruling from the court on one or more claims without going to trial.

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LINDA FABRE AND MATTHEW FABRE,	§	IN THE DISTRICT COURT
<i>Plaintiffs</i>	§	
vs.	§	
	§	
WILLIAMSON TRAVIS COUNTIES	§	53 RD JUDICIAL DISTRICT
MUNICIPAL UTILITY DISTRICT 1	§	
And ANDERSON MILL WEST	§	
NEIGHBORHOOD ASSOCIATION, INC.	§	
CATHERINE FRANKE, ART MEDRANO,	§	
BETH JONES, AND MEGAN DUDO,	§	
<i>Defendants</i>	§	TRAVIS COUNTY, TEXAS

**ORDER GRANTING DEFENDANTS' PLEA TO JURISDICTION AND
DISMISSAL WITH PREJUDICE**

On August 24, 2021, the Court heard Defendants' Plea to Jurisdiction, Motion for Summary Judgment, Motion to Dismiss, and Alternative Motion to Abate. On September 29, 2021, the Court heard Plaintiffs' Motion for No-Evidence and Traditional Partial Summary Judgment by submission. On September 29, 2021, Plaintiffs filed a supplemental personal declaration of Linda Fabre with attachments in support of their motion for summary judgment. On the same date, Defendants filed a motion to strike the supplemental declaration due to untimeliness. Based upon the submission date (which was chosen because Plaintiffs had set their motion for summary judgment for hearing on that date), Plaintiffs' motion and summary judgment evidence were due to be filed on September 8, 2021. The Court also notes that Plaintiffs' motion for summary judgment was filed as an exhibit to its response to Defendants' motions. The supplemental filing does not include any explanation for the late-filing or ask for leave of Court. In addition, from the Court's review, the supplemental evidence appears to have been available to Plaintiffs for a timely filing. Accordingly, Defendants' motion to strike the supplemental evidence is GRANTED.

After considering the cross-motions, responsive pleadings, the live petition and answer, the evidence presented, and the arguments of counsel, the Court is of the opinion that Defendants' Plea to the Jurisdiction should be GRANTED and the case DISMISSED. Because this Order disposes of the case, the Court does not reach the other motions before the Court.

IT IS, THEREFORE, ORDERED, ADJUDGED and DECREED that Defendants' Plea to the Jurisdiction is GRANTED, and the case is DISMISSED with prejudice to refiling. This is a final disposition of the case.

Signed this 5th day of October, 2021.



JUDGE PRESIDING
JESSICA MANGRUM