

Northwest Austin MUD orders tax cut from city

By Chuck Lindell
AMERICAN-STATESMAN STAFF
Tuesday, September 29, 2009

After winning the latest round of a seven-year legal battle, a Northwest Austin neighborhood demanded Monday that the city cut property taxes for its residents — a move likely to trim several million dollars from Austin's budget.

The city is almost out of options to avoid the tax cuts.

The issue began in 2002, when the [Canyon Creek](#) neighborhood sued Austin, alleging that the city was imposing an improper double taxation on residents, who must pay property taxes to the city and to Northwest Austin Municipal Utility District No. 1. Taxes to the district pay off \$21 million in bonds that were used to build the neighborhood's water and sewer lines in the 1990s.

A state trial court threw out the district's lawsuit, but the 3rd Court of Appeals intervened, ruling last year that the way those taxes are collected violates state law.

Residents of Canyon Creek — or any municipal utility district annexed by a city — cannot be forced to pay property taxes that, when combined, exceed the regular city rate, the appeals court said. However, the court ruled, Austin and the district were charging their full tax rates, which added about \$1,000 a year in extra taxes for 1,296 households.

Austin appealed, but on Friday the Texas Supreme Court refused to accept the case, letting the lower court ruling stand.

The district responded Monday by demanding that city officials begin negotiating on a new tax rate no later than Oct. 10.

"It is time for the city to set aside its stubborn efforts to continue its abusive treatment of the district and the numerous Austin residents living in the district," district lawyer Greg Coleman said by letter.

The city's legal team will meet with City Council members and water utility officials to decide the next step, Assistant City Attorney Chris Coppola said Monday.

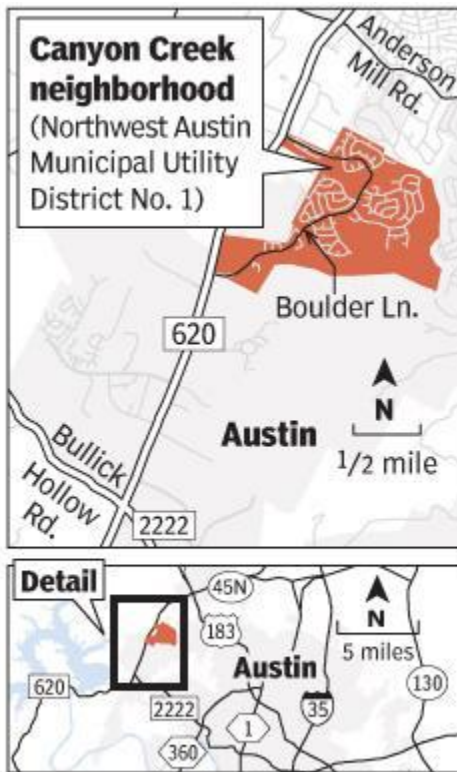
"The 3rd Court of Appeals decision certainly indicates that one of our choices is going to be to negotiate with Canyon Creek," Coppola said. "That may be something we do."

Austin, however, will probably ask the Supreme Court to reconsider its decision, Coppola said. That motion for rehearing is due by Oct. 12, and the court would have 180 days to respond — though such motions are rarely granted and are typically disposed of within several weeks.

Canyon Creek residents cannot be reimbursed for extra taxes collected over the years, the appeals court ruled, so the most Austin stands to lose in property taxes is \$19.5 million — the amount of principal and interest remaining on the utility bonds, set to be retired in 2026, according to district figures.

However, the city's revenue loss will likely be lower because it already is forfeiting the equivalent of about half of Canyon Creek's annual property taxes, in the form of a rebate on residents' water bills. That rebate is in return for neighborhood-area land donated to the Balcones Canyonlands Preserve.

Canyon Creek gained national notoriety last June when a separate lawsuit led to a U.S. Supreme Court decision allowing small jurisdictions to opt out of federal oversight under the Voting Rights Act. Coleman also represented the district in that lawsuit.



Robert Calzada AMERICAN-STATESMAN

Courtesy of JB Goodwin