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Massive mixed-use project in SE Austin clears a major hurdle

Water tiff resolved for now; 16,000 homes on horizon

Austin Business Journal - by [Kate Harrington](#)

A protracted legal battle over water in Southeast Travis County may finally be at an end, paving the way for a massive planned development to move forward.

A Travis County District Court judge ruled earlier this month in favor of Carma Texas, the Texas arm of Calgary, Canada-based Carma Developers LP, dismissing a case from Creedmoor-Maha Water Supply Corp.

The dispute between the two groups goes back more than a year. Carma has been buying land just west of Austin-Bergstrom International Airport in far East Austin since 2005 and has amassed about 2,300 acres.

The developer plans a master-planned community that will include about 16,000 homes, roughly 4 million square feet of commercial space, several schools and parklands at buildout, but a construction timeline has not yet been put together.

Nikelle Meade, a partner in the Real Estate Practice Group with Brown McCarroll LLP and one of the lawyers representing Carma, said a big part of making the project successful is water — and a lot of it.

Much of the land Carma bought, however, is within Creedmoor-Maha's certificate of convenience and necessity, or CCN.

Because the rural water corporation cannot provide the amount of water the development would need, Meade said, Carma petitioned for, and received, a permit last summer from the Texas Commission on Environmental Quality allowing Carma to be released from Creedmoor-Maha's CCN.

Creedmoor-Maha appealed the commission's decision, and on July 13 the Travis County District Court dismissed the case — a victory for Carma.

"It's a very big deal," said Kenneth Ramirez, a partner in Brown McCarroll's Administrative Practice Group also representing Carma. "It's a very sophisticated, very dense development. ... Securing water supplies in our part of the world where water is already limited and spoken for is a huge deal for a development like Carma."

Mark Zeppa, general counsel for Creedmoor-Maha, said the water corporation will appeal the district court's decision.

Zeppa said the Texas Commission on Environmental Quality violated a statute in granting the decertification because the statute requires Carma to own all the property being released. Zeppa said Carma doesn't own all the property petitioned for release from the CCN; Carma's lawyers said it does.

Zeppa, Ramirez and Meade agree on one thing: The removal of Carma's land from Creedmoor-Maha's CCN will be a devastating blow to the water corporation.

"That's 1,200 acres worth of potential development that we won't be able to service," Zeppa said.

Zeppa said compromise is not an option at this point. Ramirez said he has been puzzled as to why Creedmoor-Maha wouldn't negotiate earlier. While Creedmoor-Maha can be compensated for the hardware it has in the ground right now, it will not be compensated for future revenue on the property.

"That's a big hit for Creedmoor," Ramirez said. "It's in the southeast part of Travis County, where a lot of growth will be, especially with State Highway 130 and State Highway 45. ... They've lost the ability to serve what's likely to be a dense developing area."

The city of Austin, which will supply Carma's water, must now build the infrastructure. And developers must still go through the routine platting and zoning for the development's first phases, Meade said, so there's no groundbreaking date scheduled yet.

Courtesy of JB Goodwin