

Friday, September 12, 2008

Forest Lawn sues Lennar over Great Park cemetery

Complaint alleges developer took part in 'commercially repugnant tactics' while backing out of memorial park plans.

By SEAN EMERY
THE ORANGE COUNTY REGISTER

IRVINE – Forest Lawn is fighting for a final resting place next to the Great Park, filing suit Friday against Lennar Corp. for allegedly backing out of a written agreement to jointly develop a cemetery and mortuary.

Forest Lawn in a complaint filed in Orange County Superior Court in Santa Ana accuses Lennar of backing out of plans for a 73-acre memorial park in the developer's private Great Park adjacent development. Forest Lawn is also looking to reclaim an unspecified amount of the hundreds of thousands of dollars they claim to have spent designing the cemetery and mortuary, said David Waite, the company's legal representative.

The disagreement centers around a written agreement that Forest Lawn says was created even before Lennar took control of the former El Toro Marine Base.

City leaders in 2003 had agreed to zone 73-acres of the El Toro land for cemetery use. A year later, Lennar agreed to team up with Forest Lawn to create the cemetery and mortuary, with the understanding that Lennar would get city approval for the project, and Forest Lawn would eventually purchase, develop and run the cemetery and mortuary, Waite said.

Lennar in 2005 purchased the El Toro property, transferring 1,347-acres of the land to the city for creation of the Great Park. The developer originally planned to construct several residential districts around the park, but has scaled back its initial plans in the face of an ailing housing market to immediately focus on the Lifelong Learning District, a mix of educational, retail and eventually residential development slated to break ground this fall.

Forest Lawn's complaint details a deteriorating relationship with the developer, who it accuses of taking part in "commercially repugnant tactics." The complaint claims that Lennar twice tried to switch settled agreements with terms more favorable to the developer. The complaint also alleges that Lennar tried to relocate the planned site of the cemetery to "an environmentally toxic ordnance training site with an unpredictable time frame for remediation."

"It was really Lennar in the driver's seat as far as getting the necessary approvals," Waite said. "Forest Lawn was in a position of waiting and assisting."

During this time, the complaint says Lennar tried to bar Forest Lawn from directly contacting the city, and eventually stopped responding to Forest Lawn's phone or written messages. Forest Lawn claims that Lennar in mid-August finally told them they had "moved on," and were pursuing other development plans for the property.

"From Forest Lawn's perspective we are mystified," Waite said. "The agreement binds them, but they say they have moved on."

Lennar Spokeswoman Carol Wold said the company could not comment on the suit since it has not seen the complaint.

The dispute threatens to derail the construction of Irvine's first graveyard. Despite the city's reputation for extensive master-planning, the community has no cemetery.

The original master planners targeted land alongside the 405 Freeway, between Sand Canyon and Laguna Canyon, as a cemetery site. That plan fell by the wayside when voters in 1988 approved a measure to preserve open space.

City leaders are still studying whether to include a military memorial and cemetery within the Great Park itself. The Great Park Corporation in early August approved further study of the cemetery plan, which is still in its early phases.

If Forest Lawn is able to get court approval to move forward with the project, the Irvine site would become the Southern California-based company's eighth location. It would also be the company's second Orange County mortuary and memorial park, joining Forest Lawn's Cypress location.

Contact the writer: 949-553-2911 or semery@ocregister.com