

## News

### DEVELOPER SUES DISTRICT OVER EMINENT DOMAIN

By **Keith Reid**  
November 25, 2008  
Record Staff Writer

LOCKEFORD - A developer is suing the Lockeford Community Services District for not using eminent domain to buy a pricey, 63-acre lot next to his land to absorb his proposed subdivision's future wastewater.

Livermore Acres Inc. owner Ernest Pestana has long been at odds with the Lockeford Community District over the pricing and timetable to provide sewer and water service to his proposed 300-home subdivision, Lockeford Oaks, at Brandt and Jack Tone roads.

The Lockeford Oaks project could not go forward without the purchase of the 63-acre lot, for which the services district says Pestana must reimburse it through higher sewer and water connection fees.

Pestana, however, claims in court documents that the district is gouging him for millions of dollars by purchasing the lot outright instead of using eminent domain.

The district bought the land for \$2.2million from Black Mountain Development, which had acquired it from the Frank D. Bolea Trust in 2005 for the same price. Pestana believes the district could have purchased the land at a much lower price in today's market, according to court documents. A lower price for the land would mean lower sewer and water connection fees for Pestana.

Lockeford Community Services District attorney Ryan Bezerra disagreed that the \$2.2million price is inflated and said the district was happy it purchased the Bolea property without using eminent domain.

"The district did what it could to expedite the process for the Pestana project," Bezerra said. "Now, they would prefer to not pay the adjusted connection fee. They want to pay the price they think is fair."

In a 13-page complaint, Pestana claims the district could have implemented eminent domain to purchase the land for \$6,000 an acre, \$360,000 total. Pestana believes the district's purchase price for the lot will result in his having to pay what he calls "a staggering \$4.8million" in sewer fees, according to court documents.

Pestana complains in the documents that the district's purchase was "arbitrary, capricious and an abuse of discretion."

Messages left at Pestana's office for comment were not returned.

"We are defending the suit," Bezerra said. "I can't say much else, because it is in litigation."

Contact reporter Keith Reid at (209) 546-8257 or kreid@recordnet.com.

[VISIT HIS BLOG](#)