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## Texas Supreme Court wants to hear more about Dallas' demolition of 'nuisance' property

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By Rudolph Bush / Reporter  
rbush@dallasnews.com | Bio  
11:42 AM on Thu., Oct. 20, 2011 | Permalink

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The Texas Supreme Court has given [Dallas City Hall](#), and perhaps city halls across the state, a glimmer of hope in a lawsuit that could have pricey ramifications for taxpayers.

To bring you up to the speed, [the court ruled 5-4 in July](#) that Dallas improperly seized and destroyed the home of Heather Stewart way back in 2002.

The ruling in Stewart's favor means the city owes her \$130,000 for her home, [as the council was reminded on Monday](#).

There was no question Stewart's property was a nuisance. The court noted that "the Stewart home was a regular stop for Dallas Code Enforcement officials. Although utilities were disconnected and windows boarded up, the home suffered a break-in in 1997 and was occasionally occupied by vagrants."

But that wasn't the court's issue with City Hall.

The ruling was important because it basically upended Dallas' and many other cities' procedures for demolishing nuisance properties. The court stated that appointed municipal boards - the very agencies that commonly rule on nuisance properties for cities around the state - "cannot be effective bulwarks against constitutional violations."

Now, cities must take nuisance cases directly to state court or run the risk of having their demolitions ruled an unconstitutional taking of property rights.

Since the ruling was issued and the city filed a motion for a re-hearing, 18 cities, including Fort Worth, San Antonio and Abilene, and the Texas Municipal League have filed briefs with the court in support of the city of Dallas' procedures. Many, if not all, of those cities have since stopped destroying nuisance properties absent a court order.

Those cities are concerned about the case not only because of the impact it has on their ability to control dilapidated structures but because they know that they have hundreds, if not thousands, of their own Heather Stewarts in their demolition files.

But just this week, the court offered a little hope to cities in the case when it requested that Stewart's attorneys respond to the amicus briefs in the case.

That guarantees nothing beyond the fact that court hasn't washed its hands entirely of the matter. It is rare for the court to reverse its own opinions.

Despite that, City Attorney Tom Perkins sounded a cautious note of optimism about the development.

The case is "important to neighborhoods, communities and cities around the state," he said.

And "it's a very important development that the Supreme Court might take another look at this situation," he said.

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**helen trent**  
2:07 PM on 10/21/2011

When we had the Urban Rehab Standards Board (URSB) (done away with in Laura Miller's tenure) the ruling of the Board was appealable to State District Court. Since it was done away with, it would appear there aren't the same kind of safeguards.

Score: 1

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At some point there have to be some protections for the people who have to live next to such nuisances. Even with the URSB, this was not a speedy process -- went on for years before a structure was finally demolished. Took me 10 years for a house in my neighborhood. And for those who say you are destroying housing -- heck, it hadn't housed anyone for all that time. The owners had plenty of time to take whatever actions they wanted to keep their property. Believe me, "minimum" standards in Dallas are barely above falling down.



[moweddell2](#)

Score: 0

9:13 AM on 10/21/2011

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Enforcing fines for code infringements against violators is one thing, but taking of one's property without "Due Process" (allowing owners their day in court) is another. Any property taken by any government authority must be within the guidelines of courts, civil rules and remedies allowing legal participation by owners, including just compensation if so taken. Cities and other government entities taking property without these safeguards have been "stealing" property from owners for decades and it is time to stop. Thus, it is time to enforce and/or pass laws protecting property owners from abuse, etc....  
Monty Weddell - Property Owner

[1 reply](#)



[dfl4701](#)

Score: -1

6:09 PM on 10/20/2011

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130k for that? Are we paying 90% interest?



[rundontwalk123](#)

Score: -1

4:56 PM on 10/20/2011

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The cities need to be free to act on code violations even when it leads to the demolishing of a private home. Codes are there for a reason, you cant ignore them, if you do, you pay the price. I completely disagree with the Texas SC.

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