

# 'FRIENDS OF THE PARKING LOT': LAWSUIT CHALLENGES LUCAS MUSEUM SITE PROPOSAL

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## PEOPLE

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The fate of the proposed Chicago home for the Lucas Museum of Narrative Art, the brainchild of George Lucas, a name associated with futuristic images, may hinge on a legal principle as old as ancient Roma

The four-count lawsuit filed in November by the nonprofit Friends of the Parks organization is based exclusively on the public trust doctrine- Whether this historic doctrine will prevent the construction of the museum will likely be decided early next year. By court order, discovery in the case is scheduled to dose on Sept 30 and a bench trial is set for March 14 of next year.

Friends of the Parks along with two individual Illinois residents filed a lawsuit in the US\_ District Court for the Northern District of Illinois against the Chicago Park District and the city, No. 14-cv-9096.

The plaintiffs seek to bloc\* the transfer of a parcel of land on Chicago's lakefront (or any right, interest or control over that land), to the nonprofit Lucas Museum of Narrative Art and bar the construction of a museum by the same name.

Following is a brief history of the use of Chicago's lakefront, a summary of the plaintiffs' claims and the current status of the case.

## CHICAGO'S LAKEFRONT

The lakefront *has* been enjoyed by generations of Chicagoans thanks in large part to Daniel Burnham and his plan for the city of Chicago. The Burnham Plan, the common name for the 1909 Plan of Chicago, is best known for its designation of the lakefront for the public Burnham wrote "The lakefront by right belongs to the people." With few exceptions, Chicago's leaders have adhered to Burnham's proclamation; 25 of the city's 29 miles of lakefront are open to the public.

Of course, belonging to the people comes with caveats.

For example, the lakefront currently is home to four museums, all of which sit on public land owned by the park district, and all of which charge an entry fee. According to the memorandum of understanding between the park district and the Lucas Museum, seven additional museums are located on park district land. The memorandum explains that each of the 11 museums on park district land is an independent, nonprofit institution that uses park land free of charge.

### **LUCAS MUSEUM, PROJECT AREA**

In spring 2014, Mayor Rahm Emanuel announced plans for the construction of the Lucas Museum. The mission of the museum is to "collect, preserve, exhibit, study and promote narrative art and the evolution of moving images, from illustration to cinema to the digital mediums of the future."

The proposed location of the museum is a piece of land east of Lake Shore Drive, south of Soldier Field and north of the McCormick Place Lakeside Center. According to the complaint, the project area consists "entirely of land recovered from the navigable waters of Lake Michigan." The site currently is used as a parking lot, most notably by tailgating Bears fans.

### **THE LAWSUIT**

As mentioned, the complaint is based entirely upon the public trust doctrine, which guarantees the public the right to use navigable or tidal bodies of water for commerce, fishing and navigation. The doctrine has been traced to ancient Rome where the sea was considered natural and common to all; thus, no one could be denied access. In 1892, the U.S. Supreme Court held that the doctrine applied to Lake Michigan.

Here, the plaintiffs' theory is that because the project area consists of land recovered from the navigable waters of Lake Michigan, it belongs to the state of Illinois "in trust for the public." The plaintiffs, therefore, claim that the park district and city lack authority to convey any interest in the project area to the Lucas Museum.

The lawsuit has four counts seeking the same relief — an injunction preventing construction of the museum. Counts 1 and 2 seek relief under the 14th Amendment to the U.S. Constitution, while Counts 3 and 4 assert state law claims.

Count 1 asserts that the transfer of any interest in the project area without authorization from the Illinois General Assembly would diminish or impair the beneficial interest of Illinois citizens in violation of the due process clause.

Count 2 claims that the Lucas Museum would create an "arbitrary classification

of rights" with respect to trust property for the benefit of the museum in violation of the equal protection clause.

Count 3 alleges that the defendants lack authority to construct the Lucas Museum without authorization from the General Assembly.

Count 4 alleges that even if the defendants hold title to the project area, constructing the Lucas Museum would be a breach of trust because it will interfere with Illinois citizens' use and enjoyment of trust property as "a natural resource" and "free and open space."

The defendants moved to dismiss the complaint, asserting that the plaintiffs lacked standing, the case was not ripe and the complaint failed to state a claim.

On March 12, the court dismissed Count 2, holding that the plaintiffs failed to allege the elements of an equal protection claim. The court, however, permitted the other three counts to survive.

The defendants filed their answers to the complaint on April 17, admitting that the project area is land recovered from the waters of Lake Michigan but denying that it is public trust property held by the state. The defendants affirmatively assert that the park district holds title to the project area and deny that it will convey the land to the Lucas Museum. Rather, according to a motion to stay discovery the city recently filed, the park district and the museum will enter into a ground lease that the city expects to be finalized by the middle of September.

With discovery closing soon and, seemingly, few facts in dispute, this case likely will be decided on summary judgment sometime early next year.

Until then, Bears fans should be able to grill their favorite meat or sausage and drink beer on the project area for at least one more season, just like Burnham envisioned.