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## Judge rejects suit to revoke mall's \$9.5 million tax break

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MANCHESTER - The town and the developer of Manchester's Buckland Hills mall won a major legal victory this week when a Superior Court judge dismissed a local woman's lawsuit that sought to repeal the shopping center's \$9.5 million tax break.

In a 15-page ruling released Tuesday, Hartford Superior Court Judge Julia Aurigemma rejected the plaintiffs' argument that the town violated state law and the U.S. Constitution when it used the tax abatement to lure the 1-million square foot mall to Manchester in 1988.

Aurigemma said the town correctly followed the procedures under a state law that gives municipalities the power to grant tax incentives as a way to attract major retail shopping centers.

Virginia Celinski of Summit Street, a local woman who filed the lawsuit five years ago, said the ruling will hurt residential property owners in Manchester. She vowed to appeal the decision.

Celinski said she was shocked by the judge's decision but still believes she has a strong case. She said she will continue her fight to invalidate the tax agreement and force the mall's builder, the Chicago-based Homart Development Corp., to pay back any financial benefit it has received since the abatement took effect October 1, 1990.

"I feel it's an abomination that we are paying taxes and this group is not paying its fair share," Celinski said of Homart. "We have to fight for this. Otherwise they'll spend all our money and give it to the conglomerates."

Manchester Attorney Kathleen Eldergill, who represented Celinski, said she will file the appeal within a week. But she said it could be at least a year before the Connecticut Appellate Court actually begins hearings on the case.

Officials with the town and Homart, meanwhile, welcomed the ruling, saying it shows the lawsuit did not have merit.

"The decision indicates the lack of evidence to support the plaintiffs' claims," Assistant Town Attorney William J. Shea said. "The court decided the town acted properly and the developer acted properly in entering the tax agreement."

Attorney **Lawrence R. LaSusa**, who represented Homart, said it was "unfortunate" that Celinski will appeal the case. He said the mall has helped the town by spurring economic development and bringing in needed tax revenue.

"The court made the correct opinion," LaSusa said. "The mall has been nothing but beneficial to the community. The amount of money - no matter what amount of money - that was spent to file a lawsuit of this nature when the law is so clear is an inappropriate use of resources."

LaSusa said he was not sure how much Homart and the town have spent defending the tax agreement. Celinski said her legal bill is about \$60,000, but she said she has received numerous donations from individuals, businesses, and local organizations that support her cause.

The highly controversial tax break agreement was negotiated between the town and Homart in February 1988 at a time when Manchester and South Windsor were competing for a regional shopping center.

Manchester officials, who had long seen the mall as a catalyst to further commercial development in the town's North End, said the tax break was needed because the Manchester site was more expensive to develop than the one in South Windsor, which was across the street.

The town also feared that if it lost the mall, it would also lose millions of dollars in tax revenue to South Windsor.

Under the terms of the agreement, Homart completed an estimated \$15 million worth of infrastructure

improvements in the area surrounding the mall site.

In return, the town agreed to freeze the mall's property assessment at \$7 million for seven years or until Homart received a \$9.5 million tax break.

The lawsuit was filed by Celinski and four other residents just a few days after the Manchester Board of Directors approved the agreement in February 1988. Eventually, however, the other four were disqualified from the suit.

Celinski has argued that the tax break represents a subsidy to a multi-million dollar corporation at the expense of other Manchester taxpayers. She said that her own taxes would not be as high as they are, today if it had not been for the mall tax abatement.

Celinski's entire case rested on an interpretation of the agreement and state law.

While Celinski acknowledged that the law allows tax abatements, she argued that the tax agreement between the town and Homart did not comply with that statute. She also contended that it went against the U.S. and Connecticut constitutions because it gave the developer preferential status.

But Judge Aurigemma rejected all these arguments. She said the town followed all the procedures in state law correctly.

The judge also rejected the constitutional argument, saying the equal protection clause only protects property owners in the same classification. For example, two homeowners must be treated equally.