

OAKLAND PRESS

October 27, 2016

<http://www.theoaklandpress.com/general-news/20161027/state-high-court-turns-down-pontiacs-appeal-in-phoenix-center-demo-lawsuit>

State high court turns down Pontiac's appeal in Phoenix Center demo lawsuit



The Phoenix Center in downtown Pontiac. Monday, May 11, 2015. Tim Thompson-The Oakland Press

The Michigan Supreme Court recently struck down an appeal by Pontiac officials in their efforts to raze the city's Phoenix Center and Ottawa Towers, essentially ending a years-long legal battle.

Supreme Court justices wrote in the short ruling, filed Wednesday, Oct. 26, that the appeal was denied "because we are not persuaded that the questions presented should be reviewed by this court."

But Pontiac Mayor Dierdre Waterman said the city was prepared for a decision like the one made this week.

"The decision does in a sense finalize the circumstances put in place by the previous emergency manager, (circumstances) which I inherited," said Waterman Thursday.

"But it will now help to clarify what the alternatives are in reaching some type of resolution and center our efforts more on the other avenues that had been considered in terms of handling this manner."

Waterman said she asked for input this past spring from the [Congress for the](#)

[New Urbanism](#) and other professionals on what other uses for the Phoenix Center could be. The city is also considering other alternatives for making the Phoenix Center economically viable, she added.

Both the appellate court and Supreme Court rulings were in favor of Ottawa Tower II, LLC, and its owner, Charles “Chuck” Stephens. Stephens owns the Ottawa Towers, two office buildings next to the Phoenix Center, and opposed the condemnation of the structure because he has property rights to it.

Following the ruling, Steven Sallen, president and CEO of Southfield-based law firm Maddin, Hauser, Roth & Heller, P.C. — which is representing Ottawa Towers — said Pontiac officials should have lauded Stephens, who invested in the community and “demanded nothing but fair treatment.

“... but instead they waged a war to ruin his business, based upon the big lie that the Phoenix Center was a dangerous structure whose demolition would save the City of Pontiac millions of dollars.”

Waterman added that city attorneys are still reviewing the decision and weighing its meaning.

In March, the Michigan Court of Appeals upheld an Oakland County Circuit Court ruling that dismissed Pontiac’s efforts to use the condemnation process to tear down the Phoenix Center and Ottawa Towers.

When the previous decision came down, local business owners were pleased, stating the city was conducting a “legal witch hunt” against Ottawa Towers and, in part, against local businesses. But Waterman said leaders in Pontiac were simply looking to increase economic potential for the city’s developments.

Thursday’s ruling is the seventh time courts have ruled against the city, and in favor of Ottawa Towers, regarding the Phoenix Center, an 874,000-square-foot parking garage.

BACKGROUND

Demolition was announced for the Phoenix Center as early as 2012 under former Emergency Manager Lou Schimmel. Schimmel and others at the time cited the structure needed \$8.1 million in repairs and maintenance work, and that the center was also losing \$175,000 a year for the city.

Stephens and his company, Ottawa Tower II LLC, filed a \$1 million lien against the Phoenix Center on May 31, 2013, which made him essentially legal owner of the property.

The towers’ company then filed suit against the city to block the demolition.

The filing contended that razing the Phoenix Center would strip the office buildings of parking, violate easement rights and physically damage the towers.

A dismissal of the condemnation happened when a judge ruled Pontiac didn't make a "good faith offer" to Ottawa Towers for their property rights in the Phoenix Center.