

Businessmen argue against Cabela's deal

La. Supreme Court hears case on legality of TIF plan

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NEW ORLEANS — Attorneys for two Ascension Parish small-business owners and Gonzales jostled Monday before the state's highest court over the legality of tax incentives given to hunting and fishing retail giant Cabela's to build a store in the city.

Gonzales voters overwhelmingly approved a tax increment financing plan in April 2005 that diverts future sales taxes from the planned Cabela's complex to pay off \$53 million in bonds that will be purchased to build the store and surrounding infrastructure.

Attorney Cheryl Kornick, who represents hunting and fishing store owners C.J. Hebert of Hebert Guns and Carl Singletary of Carl's Tackle Box, argued Monday during a hearing at the Louisiana Supreme Court that the TIF plan is unconstitutional because the state constitution says the government cannot "loan, pledge or donate" public money to nonpublic projects.

"That line exists and it cannot be moved," she told the justices, calling the bond plan an unnecessary "giveaway" and a "prohibited donation."

Thomas Gottsegen, an attorney for Gonzales and its Industrial Development Board, countered that no constitutional violation exists because there is "adequate consideration flowing to the public."

"We don't think there's a donation or a pledge," he said, adding that the Cabela's financing plan is neither a "disguise" nor a "sham."

The seven justices took the arguments under advisement without indicating when a decision will be issued. Gottsegen asked the high court to affirm lower court rulings that went against Hebert and Singletary.

Kornick urged the court to reverse those rulings.

State District Judge Alvin Turner ruled in August that Cabela's, Gonzales and the state followed all proper bond issuance regulations and laws.

The state 1st Circuit Court of Appeal, by a narrow 3-2 vote, affirmed Turner's ruling in October.

Under Gonzales' TIF plan to bring Cabela's to the city, 1.5 cents of the city's 2-cent sales taxes from Cabelas and other business built in a special economic development district would pay off the bonds used to build the hunting and fishing retail store.

The building would not be given to Cabela's but instead would be owned by the city for 30 years. Cabela's would have to pay the property taxes and maintenance costs. After the

bonds are paid off, Cabela's would have the option to buy the building. Gottsegen also said Cabela's is assuming all tort liability.

Hebert has said local businesses such as his own have not gotten any government money and he does not want his tax money going to an out-of-state business that could put him out of business.

Gottsegen told the justices it is "rank speculation" that Cabela's will drive other businesses away or force them under. He added that the city and state will benefit.

"Unquestionably they're getting quite a lot," he said. "There's not any risk to city and state treasuries in this deal."

Kornick argued that the state cannot "get in the business of private business."

"When the state gets into the sporting goods business, the state has crossed the line and the city has crossed the line," she said.

The 165,000-square-foot Cabela's is scheduled for construction on 50 acres in a 100-acre economic development district bounded by Interstate 10, La. 30, St. Landry Road and the Gonzales city limits.

Gottsegen said the store will create 300 new jobs, but Kornick said most of those jobs will be part-time and pay minimum wage.

TIF opponents say the funding mechanism offers unfair tax breaks to projects that can and would be built without public funding.

The Baton Rouge Area Chamber has publicly endorsed the Cabela's project, as well as a Bass Pro project in Denham Springs, and the use of TIF as an incentive for the developments.

The Denham Springs Economic Development District has asked the state Supreme Court to uphold two lower court rulings that validated \$50 million in bonds proposed to finance the Bass Pro project. The district also wants the high court to end any threat from a separate attack on the election that provided funding for the bonds. Those requests are pending at the court.

Lawyers involved in the Bass Pro case were in the courtroom Monday to observe the Cabela's arguments.

Livingston Parish residents voted overwhelmingly in April 2005 to rededicate a portion of sales taxes that would be generated by Bass Pro and other businesses that locate in the 75-acre project. The rededicated taxes would go to pay off the bonds used to build the Bass Pro store and related infrastructure.

Local officials called the election after the high court invalidated a previous bond proposal because voters had not approved using taxes for that purpose.