$6.7M ruling against Brookhaven could have ‘chilling effect,’ mayor says

**Jury levied punitive fines against Mayor John Ernst, City Manager Christian Sigman after finding they purposefully derailed a mixed-use development**

Shocking.

That’s the word attorneys, plaintiffs, defendants and city officials have used to describe a jury verdict against Brookhaven.

A DeKalb County jury found last week that city leaders actively derailed a proposed mixed-use development and ignored several conflicts of interest. In what is thought to be one of the largest rulings of its type in state history, the jury ordered Brookhaven, its mayor and its city manager to pay more than $6 million in damages to Atlanta-based developer The Ardent Companies and two homeowners, Jon and Courtney Wheeler.

On Monday, the jury went further to try to punish Mayor John Ernst and City Manager Christian Sigman. The jury ordered both to pay $200,000 in punitive damages, a potentially unprecedented figure for city officials entangled in a real estate dispute.

Explore[Brookhaven ordered to pay $6M over failed mixed-use project](https://www.ajc.com/neighborhoods/dekalb/brookhaven-ordered-to-pay-about-6m-over-failed-mixed-use-project/BPKWCGRQSJEURK6YIWXTEETMSA/)

Before the ruling took place, both Ernst and Sigman pleaded for the jury’s mercy, arguing the ruling could lead to their homes, cars and livelihoods being taken from them.

“This is going to haunt me for the rest of my life,” Ernst said during Monday’s testimony.

In a statement, the city’s spokesman said Brookhaven disagrees with the jury’s verdict and is exploring its appeal options. The city has 30 days to appeal.

**Who pays the bill?**

The City of Brookhaven, its mayor and city manager were ordered to pay fines totaling more than $6.6 million.

| **Offense** | **Fine** | **Who pays?** |
| --- | --- | --- |
| Tortious Interference against Ardent | $5,555,514.11 | The City of Brookhaven, John Ernst & Christian Sigman  |
| Procedural Due Process for Ardent | $250,000 | The City of Brookhaven |
| Attorney's fees for Ardent | $105,337.50 | The City of Brookhaven, John Ernst & Christian Sigman  |
| Punitive Damages for Ardent | $100,000 | John Ernst |
| Punitive Damages for Ardent | $100,000 | Christian Sigman |
| Tortious Interference against the Wheelers | $220,000 | The City of Brookhaven, John Ernst & Christian Sigman  |
| Procedural Due Process against the Wheelers | $25,000 | The City of Brookhaven |
| Attorney's fees for the Wheelers | $105,337.50 | The City of Brookhaven, John Ernst & Christian Sigman  |
| Punitive Damages for the Wheelers | $100,000 | John Ernst |
| Punitive Damages for the Wheelers | $100,000 | Christian Sigman |
| TOTAL | $6,661,189.11 |   |

SOURCE: Simon Bloom's legal team

The ruling undoubtedly caught the attention of other city officials across the state, whose jobs are to participate in complicated and sometimes contentious real estate deals.

“I think it is kind of a warning to elected officials to get back to the root of public service, which is you’re a servant to the public,” J. Max Davis, the [founding mayor of Brookhaven](https://www.ajc.com/news/local/brookhaven-mayor-davis-resigns/llD52rvPbkM10lCybQrVjN/), told The Atlanta Journal-Constitution on Wednesday. “And the public includes people who come to you for proposed developments, whether you want to build a pool or want to build a condo tower.”

### Shrewd negotiations or arrogance?

Ardent, which has built in Brookhaven before, pitched a 226-unit townhome project along Buford Highway in 2017. More than 20 homeowners, including the two who would later sue the city, agreed to sell their single-family homes to Ardent for the project site, which consisted of about 17 acres.

However, negotiations with city officials quickly turned sour.

“We felt there were too many twists and turns and we felt we were just wronged,” Todd Terwilliger, a founder and partner of Ardent, told the AJC. “So many twists and turns that we didn’t understand their motives.”

The developer claims the city began trying to acquire about three acres of the project site for their own use, a potential landing spot for a public safety hub. In addition, the city was allegedly trying to leverage the same property to the DeKalb County School Board in an effort to keep Cross Keys High School in Brookhaven.

“Cross Keys has been systematically underfunded for years,” Ernst said during his testimony, arguing he was trying to help Buford Highway residents who rely on the school.

However, the school would relocate outside the city limits, and the developer was left pondering how their townhome development proposal got entangled with school district negotiations.

Simon Bloom, Ardent’s attorney, told the AJC he believes Brookhaven’s leaders were genuinely trying to improve things for Buford Highway, where most of the city’s Hispanic and minority population lives. However, they tried to step over Ardent during the process.

“I don’t think anybody got a bag of cash dropped behind their house,” Bloom said. “But when you get around politicians, especially in these affluent towns, they have a messiah complex. They think they’re saving everybody.”

### ‘The appraisal is what the city says it is’

Bloom said the negotiating tactic that killed the deal was the price of a dead-end street, Bramblewood Drive.

Ardent wanted to purchase the road from the city as part of the 17-acre development, but the city’s asking price was too high, Bloom argued. Ardent had an appraisal for $250,000, while the city asked for $3 million and wouldn’t budge.

Bloom called it extortion, a kickback and pay-to-play arrogance.

He’s not the first to levy that type of accusation against Brookhaven. For years, DeKalb Commissioner Jeff Rader has feuded with city leaders over developer tax breaks, which he argued robbed the county and school district of tax revenue.

“There is no free lunch. If you take money through a tax abatement and give it to a city, then that’s taking money away from the school system and the county,” the commissioner, who just announced his retirement, said in 2016 when the city struck a high-profile deal with the Atlanta Hawks for a practice facility.

Bloom said overpricing roads is a tactic that worked when Brookhaven wooed Children’s Healthcare of Atlanta to build a $1.3 billion hospital. According to court documents, the hospital system paid $1.6 million an acre for Tullie Road and Tullie Circle, roads that surround the hospital development site.

The city’s ask for Bramblewood Drive was roughly the same, $1.5 million per acre. No official appraisal was conducted. During Ernst’s testimony last week, he argued that, “The appraisal is what the city says it is.”

Bloom hammered that quote to the jury multiple times Monday as evidence the city was throwing its weight around, trying to force the developer to write a hasty check.

“If they had an appraisal they couldn’t extort us for $3 million,” Bloom said.

In 2018, the city denied a zoning request, voiding the developer’s deals for homeowner properties and prompting the lawsuit. Nothing has been done with the land since.

“It’s still ripe for redevelopment,” Terwilliger said.

### ‘A wake-up call for Brookhaven’

Punitive damages aren’t common when real estate disputes spill into court.

Rusi Patel, general counsel with the Georgia Municipal Association, said it’s tough to tell whether a specific ruling like this against elected officials has happened before, but he said it’s definitely rare.

“None of us are aware of anything that comes to mind immediately,” Patel said, adding that they checked with some insurance providers for local governments. “It doesn’t mean that hasn’t happened... there’s no way to know for sure, something like that. But I would say it’s pretty uncommon.”

When making his case to the jury, Bloom tried to send a message. He asked for both Ernst and Sigman to pay $4 million apiece in punitive fines. While the jury’s final decision wasn’t that large, Bloom still called it a “monumental decision.”

“You will not find a verdict like this or anything close,” he said.

Bloom added that the city had a chance to pay less. He offered a seven-figure settlement to end the lawsuit; the city countered with a “low six-figure” offer Bloom called an insult.

Ernst and Sigman both said they were following instructions and advice from the council and city staff throughout the Ardent negotiations, and they maintain that they did nothing illegal or unethical.

“I was just doing what a city manager does,” Sigman, who makes about $214,000 a year with Brookhaven, said. Ernst makes significantly less, about $16,000 a year plus profits from his law practice. His term expires at the end of 2023, and he can’t run again due to term limits.

During his testimony, Ernst said a harsh ruling could dissuade cities from pursuing large projects or properly fighting for residents.

“I’m very concerned about how I and other elected officials across the state can function, how we can have conversations with anyone in the future,” he said. “I think it could be a chilling effect.”

Davis, who was mayor of Brookhaven from 2012 to 2015, agreed that the ruling should worry public officials. However, he said it’s important for politicians to stay humble.

“It should be a wake-up call for Brookhaven,” he said.