

The Boston Globe

Judge clears way for Fenway Center

State, city say ruling is welcome

By [Casey Ross](#)

GLOBE STAFF

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The Fenway Center project, stalled for nearly three years by a zoning challenge, is expected to create 1,700 construction jobs.

A court ruling has removed the most significant legal barrier standing in the way of the long-delayed Fenway Center development, a \$450 million complex of apartments, stores, and offices to be built over the Massachusetts Turnpike.

Massachusetts Land Court Judge Harry Grossman dismissed a zoning challenge that halted the project nearly three years ago. Grossman, in a ruling made public Tuesday, found that a project neighbor, HRPT Medical Buildings Realty Trust, failed to prove the project would improperly infringe on its property.

The decision clears the way for one of the city's largest and most transformative construction projects. Fenway Center calls for development of 550 apartments, retail stores, parking garages, and a 27-story office and residential building on parking lots near the ballpark. A new commuter rail station is also slated to be built next to the site.

The five-building complex is designed to be unlike anything now standing in Boston, with solar panels to generate much of its electricity. Part of the development will straddle the turnpike between Brookline Avenue and Beacon Street, where many Red Sox fans now walk to the ballpark through crumbling parking lots.

"We will turn these vacant lots into a vibrant neighborhood," said developer John Rosenthal, who first proposed the project more than a decade ago. "This will be a new gateway from the west and will cover up the large, smelly scar of the turnpike."

Rosenthal, who owns the Newton real estate company Meredith Management, said he hopes to start construction early next year. He said he is in negotiations with financial partners and still must secure loans to proceed with the project.

Timothy Bonang, a spokesman for CommonWealth REIT, the parent of HRPT, said the company has not yet decided whether to appeal the ruling. The company maintains it is entitled to compensation for what it calls substantial damages to its site.

“Unless the decision is reversed . . . someone may have to pay very significant damages to HRPT so this private development by Mr. Rosenthal can have the roadway access that seems to be planned. Unfortunately, that someone is likely to be the City of Boston or the Commonwealth of Massachusetts.”

State and city officials cheered the decision, noting that Fenway Center will result in hundreds of construction jobs and advance the redevelopment of the neighborhood around the ballpark.

“It is great news that this lawsuit has been decided,” Mayor Thomas M. Menino said. “I am pleased that the \$450 million Fenway Center can now move forward and put 1,700 construction workers back on the job.”

HRPT’s lawsuit challenged a 2009 Boston Zoning Commission decision allowing construction of Fenway Center, which is situated next to an office building the company owns at 109 Brookline Ave. HRPT asserted that a planned road into the development site would improperly restrict the company’s ability to use and develop its property.

Lawyers for both sides filed motions seeking judgment in their favor more than a year ago. In his ruling, Grossman found that HRPT’s suit lacked merit on multiple fronts, and he concluded that the company failed to show the project would harm its property or the public.

In fact, he wrote that the public will benefit in “a most significant fashion.”

The Massachusetts Department of Transportation is building the new Yawkey Station adjacent to Rosenthal’s project. The project along the Worcester line will give the station longer platforms and a new glass-framed headhouse. It is planned to be the state’s first solar-powered transit station, with energy to come from the panels installed on Rosenthal’s buildings.

Cyndi Roy, a spokeswoman for the Department of Transportation, said Rosenthal’s project and the new station “will provide a significant economic benefit to the region while allowing for easier access to the area for residents, employees, and visitors to the area. Today’s decision is a great step forward.”

The state will also spend \$6.5 million to build a street off Brookline Avenue that will feed traffic to the transit station, as well as a new section of road that will connect Maitland and Overland streets through the site.

Rosenthal said the first phase of the development will include more than 400 apartments, public open space, 60,000 square feet of retail stores, and about 1,000 parking spaces, including a garage. He said among the first retailers will be Harvest Co-op, which plans to open an organic grocery store.

The second phase of the project, to be completed in coming years, includes a 27-story tower with additional stores, office space, and apartments. Rosenthal is building the tower over the turnpike, on so-called air-rights he is leasing from the state.

His project is one of several large-scale developments near Fenway Park, where a cadre of builders has slowly begun to transform the scrubby collection of parking lots, gas stations, and fast-food restaurants that used to ring the ballpark.

The area now hosts several upscale restaurants and residential buildings, and is slated to receive additional stores, hotels, and nearly 1,000 apartments over the next several years.

Rosenthal said his and other developments will strengthen the link between Kenmore Square and the nearby Longwood Medical Area.

He said he is talking to several financial partners and expects to complete a deal to move forward with construction in the coming months.

“Boston is one of the top three most appealing real estate markets in the country,” he said. “With this ruling, there is going to be a real sense of urgency to complete [the project] that did not exist yesterday.”