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# Arcadia Theater fight heats up in Kerrville

By Zeke MacCormack | October 1, 2014 | Updated: October 3, 2014 8:56pm



Photo: JERRY LARA, SAN ANTONIO EXPRESS-NEWS  
IMAGE 1 OF 5

An old photograph of the Arcadia Theater in downtown Kerrville, date unknown. ( JERRY LARA STAFF )

**KERRVILLE** — A legal dispute is escalating between two prominent local businessmen who once partnered on renovating the Arcadia Theater, a downtown landmark that recently went back on the market after the project stalled.

The city's 2009 sale of the Water Street property to Hossein “Hagi” Hagigholam boosted hopes for new life at the long-neglected venue that hosted big-name performers after it opened in 1926. It became a movie house well before it was shuttered in the 1980s.

Under the \$10 deal, the city required Hagigholam, co-owner of the Mamacita's restaurant chain, to spend at least \$250,000 on the theater within two years, an obligation both sides say he met, permitting Hagigholam to sell it if he desired.

After a slow start, work got moving in 2011 on well-publicized plans to convert the former 900-seat theater into a venue for community gatherings and private events. But it soon skidded to a halt, sparking litigation between Hagigholam and Stephen Huser and Huser Construction Co.

In a suit last year, Hagigholam accused Huser of fraud, breach of contract and breach of fiduciary duty for alleged overbilling under the \$437,093 contract for upgrades.

Huser, who was hired in January 2011 and briefly a partner in the project, denies the allegations. Hagigholam bought out Huser's interest in the project with a 2012 agreement.

“The purchase agreement releases

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all claims against Huser,” Richard Mosty, Huser's lawyer, said in a counterclaim filed Sept. 18 in state district court here.

It accuses Hagigholam and Thomas Myers, a co-owner of the restaurant chain who once was a partner with Huser and Hagigholam in the theater venture, of breaches of contract, fiduciary duty and implied duty to Huser and his firm.

Myers and Hagigholam didn't respond to requests for comment. Hagigholam denied wrongdoing in court documents filed Monday.

“We did some work on it, but I decided I didn't want to do it anymore,” Hagigholam said last March. “I cannot take more time out of the restaurants.”

He said a conditional sales contract for the theater was pending with Pete Moore of Hunter Equities. The deal apparently never closed, as a check of county land records Monday listed the site's owner as Mamacitas Holding Co.

A banner hung on the theater last summer announced another firm had taken over the project, but a company official said Tuesday that Hagigholam had “pulled the plug” before work commenced.

The local chamber of commerce named Hagigholam businessman of the year in 2009. But the slow-moving restoration and potential sale haven't sat well with some officials here.

“From an economic development standpoint, we'd like to see the project move forward,” Mayor Jack Pratt said in March.

Huser's suit claims that once the \$250,000 spending threshold specified by the city was met, Myers told him to delay any further renovation work called for in his \$437,093 contract and sought a grant, unsuccessfully, to fund continued work.

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It accuses Myers and Hagigholam of receiving payments from a \$670,000 loan secured by their partnership, called Mamacitas Holding Co.-Arcadia Theater LLC, as reimbursements for alleged project costs, which Huser says were inflated, and for work

that he contends never occurred.

“Discovery is ongoing to determine how much money was wrongfully diverted,” said the counterclaim by Huser, whose firm in 2012 built the new City Hall, among other major public projects.

Hagigholam's latest court filing said Huser had received all the money he was due, had waived his right to sue, and that his claims are barred by the statute of limitations.

His lawyer, Judith R. Blakeway, also faulted Huser's pleading as lacking sufficient specificity.

“Hagi is not put on fair notice as to the factual basis for the claim and cannot properly prepare for trial,” she wrote.



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