

Judge issues TRO barring city from modifying evidence at explosion site

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An explosion at Watson Grinding and Manufacturing rocked northwest Houston early morning Friday, Jan. 24, 2020, killing two people and damaging hundreds of nearby homes.

Houston Fire Department firefighters make their way through debris near the site of an explosion at Watson Grinding and Manufacturing on Friday, Jan. 24, 2020.

Debris is shown across Steffani Lane Saturday, January 25, 2020 in Houston adjacent to Watson Grinding and Manufacturing, 4525 Gessner Rd., the day after the explosion occurred.

A state district judge on Friday issued a temporary restraining order effectively barring the city from reopening a street at the site of last week's fatal explosion in west Houston, a win for plaintiffs seeking to preserve and investigate the blast location.

The TRO, issued by Judge Tanya Garrison, forbids the city from altering evidence on Steffani Lane, a road next to Watson Grinding and Manufacturing that the city has sought to reopen.

The city had sought to clear Steffani, saying there was concern that rubble in the roadway could present a hazard to those with or without permission to be on the site. The TRO appeared to allay those concerns by clarifying that the city would not be liable if someone were injured on the closed street.

The city's lawyers also had sought to allow city workers to "bag and tag" evidence at the blast site as part of a criminal investigation into the explosion. The Bureau of Alcohol, Tobacco, Firearms and Explosives, which is investigating the explosion, released control of the site Friday, at which point the victims' lawyers worried the city would begin gathering evidence.

Those injured in the explosion — and the family of Frank Flores, a worker killed in the blast — have hired experts to conduct an investigation in conjunction with Watson's lawyers, said Robert Kwok, an attorney for the plaintiffs. Flores' family has sued Watson.

"We cannot conduct an investigation if there's no evidence on the ground. We need to see what's there," Kwok said outside the courtroom. "It could be a valve, it could be a piece of pipe, it could be a component part of some kind of tank. We need to know what's there, what blew it out, the force and velocity at which it blew out, and what chemical would have produced that type of force."

Houston Fire Chief Sam Peña said city officials collected only "some DVRs and some metal shavings" from the blast site, which they turned over to the ATF.

"We did not remove any other items from the scene, and nothing was removed for evidence from the street, as far as I know," Peña said in a text. "As of today, we have completed our work at the site and released it back to the responsible party who will secure the scene."

Garrison's order affirmed her ruling Thursday to preserve evidence at the blast site. The TRO extends to 1:30 p.m. Feb. 14 and orders the plaintiffs to file a \$500 bond — far less than the \$500,000 sought by the city to cover possible injuries if Steffani Lane remained closed. Kwok called the city's original bond request "patently ridiculous."

In a statement Thursday, Mary Benton, Mayor Sylvester Turner's press secretary, said the city "advised the Court that allowing the plaintiffs' attorney and experts to have control over a city street covered with debris would risk injury to them, to third parties and could lead to potential additional litigation."

The "bond requirement for any injunction is not a demand for payment," Benton said, adding that such an injunction by law would require a bond to cover liability. The order Friday made clear that the city would not be liable.

City Attorney Ron Lewis did not respond to a request for comment Friday.

Garrison's order also required the parties to "confer in an attempt to achieve agreement" if "any part of this order makes the performance of the City's normal course of investigation difficult or burdensome."

Kwok said the plaintiffs were seeking to prevent officials from removing evidence, but did not intend to keep them from visiting the spot of the explosion.

"The city is free to conduct their own investigation, and they have," Kwok said. "Nothing we're doing is designed to interfere with city's ability to investigate. The only thing in the order was, just don't take anything from" the blast site.

Harris County lawyers, meanwhile, have filed a separate lawsuit against Watson seeking to keep the site shut down. In documents filed Thursday, county lawyers said preservation of the site was crucial to their investigation.

The county lawsuit says Watson violated environmental, regulatory, nuisance and common law following the explosion involving "ultra-hazardous chemicals" last Friday at its Gessner facility. It also says the company violated the Clean Air Act by exposing the public to unauthorized emissions, imperiling public health, general welfare, physical property, basic air resources and visibility.

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