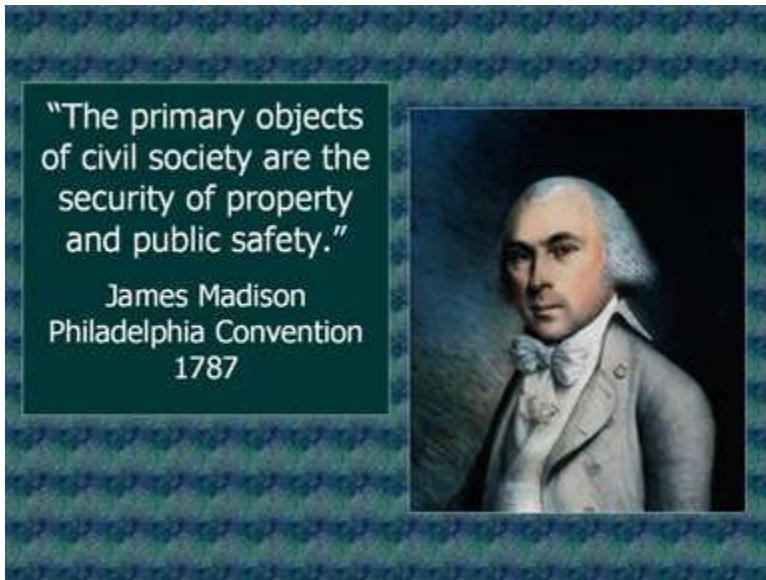


Jack Venrick

From: "Jack Venrick" <jacksranch@skynetbb.com>
To: "AJack R. Venrick" <jacksranch@skynetbb.com>
Sent: Saturday, February 21, 2009 10:13 AM
Subject: 10,000 Properties Siezed By Cities For Private Developers

From: Jack Venrick [mailto:jacksranch@skynetbb.com]
Sent: Monday, March 12, 2007 10:58 AM
To: Campbell, Rep. Tom
Subject: 10,000 Properties Siezed By Cities For Private Developers



To: The Takers Of Freedom And The Taken:

Jack Venrick
Enumclaw, WA

http://www.citizenreviewonline.org/may_2003/eminent.htm

Eminent domain and private gain - A report claims that 10,000 properties have been seized by cities for private developers.

[By Alexandra Marks |](#)
[Staff writer of The Christian Science Monitor](#)
 5/10/03

PORT CHESTER, NEW YORK – Bill Brody thought he was set for life. He'd bought and renovated four buildings on South Main Street in this struggling New York suburb and was successfully renting them out.

Then he was informed the village was taking his property - all of it. And because he missed a small, legal notice in the paper, he even lost the right to fight the decision.

The village had simply declared eminent domain, so that another private developer could build part of a Stop & Shop and parking lot where Mr. Brody's commercial buildings sat.

"It's ludicrous," says Brody. "If it was for a road or a school or a highway I wouldn't bother."

But since the village was taking his property only to give it to another private developer, Brody decided to take it to court.

The Constitution does give local governments the right to condemn property through eminent domain for "public use" if the owner is compensated. But in the past five years, both state and local governments have taken or threatened to take more than 10,000 homes and small businesses such as Brody's to turn them over to private developers, according to a report compiled by the Institute for Justice, a nonprofit advocacy law firm in Washington.

The local governments contend they're creating bigger tax bases and more jobs to help the local economy. That's the "public use." But to critics it's an unconstitutional abuse.

"Practically every house in the entire country would produce more jobs and taxes as an office building, and everybody's small business would produce more jobs and taxes if it were removed and turned into a Costco," says Dana Berliner, a senior attorney at the Institute for Justice. "If that's all it takes, then your house or business can be up for grabs as soon as a some private business interest takes a fancy to it."

The increase in the use of eminent domain for private entities has created a groundswell of opposition from New York and Detroit to California.

The Institute for Justice's report documents dozens of instances of apparent abuse where states and local cities and towns put the interests of individual developers over longtime residents. For instance:

- In Atlantic City, an entire black middle-class neighborhood was condemned and destroyed to make way for a tunnel to a new casino that was never built.
- Bremerton, Washington removed a woman in her 80s from her home of 55 years for the claimed purpose of expanding a sewer plant, but gave her former home to an auto dealership.

- West Palm Beach County in Florida condemned a family's home so that the manager of a planned new golf course could live in it.

Many individuals are fighting the practice and the courts, which used to routinely rubber stamp local condemnations, are responding.

In 40 percent of the challenges to eminent domain brought between 1998 and 2002, courts sided with the original landowners. Six state legislatures have passed bills increasing protections for people threatened with eminent domain. Eleven others are considering such bills, including New York.

The practice of eminent domain has been abused throughout US history. When the railroads and many of the nation's highways were built, landowners were often told their properties were condemned, given a dollar and told to go to court if they wanted their "just compensation." But even using such high-handed tactics, most eminent-domain condemnations were used for clearly delineated public purposes.

In the early 1950s, a landmark case changed that. Washington, D.C., wanted to redevelop a rundown part of town. So it declared eminent domain and condemned the property by arguing that it constituted a public use by getting rid of the "blighted" area. The Supreme Court upheld the notion that it's a public good to get rid of blight, but made no determination one way or the other on the appropriateness of handing the property to private developers.

"The Supreme Court gave 'public use' definition by saying it had to be of public purpose," says Veronique Pluviose-Fenton, an attorney with National League of Cities. "Redeveloping brown fields can be seen as having a public use because it gets rid of an environmental hazard."

It wasn't until the booming 1990s - when real estate prices soared - that the practice of condemning property for private development really took off.

According to the Institute for Justice report, local governments went from condemning blighted areas to applying the practice to rundown neighborhoods. Then it began to be condemn properties in areas that looked just fine.

In Lakewood, Ohio, for instance, a whole neighborhood of colonial homes was recently deemed "blighted" because the backyards were too small and the homes didn't have two-car garages. The city is turning the property over to private developers to build upscale condominiums and retail space.

"Things have gotten worse as the word spread among businesses that they can acquire land without having to go through a bidding process," says Gideon Kanner, a professor emeritus at Loyola Law School in Los Angeles and expert on the issue of eminent domain. "They can overcome opposition and force their way into communities that don't want them."

The National League of Cities' Ms. Pluviose-Fenton wouldn't comment on any individual case. But she admits there have been abuses. But in general, she insists the power of eminent domain is used responsibly and that the courts are there to act as a check and balance.

"I think local governments are keenly aware that that kind of abuse gets the attention of people in Washington who are, at a moments notice, ready to pass legislation that would restrict local authority."

Lawmakers in New York State are considering a bill that would at least require cities and towns to notify people like Mr. Brody that they're taking their land so that they can at least mount a legal fight.

Brody had wanted to challenge the city's designation of the street as "blighted." Just a few years earlier, it had spent a million dollars putting in new roads, underground wires, and quaint 19th street lamps. It had assessed him almost \$60,000 for the upgrade. The street had a thriving, eclectic mix of antique shops, Latin restaurants and commercial space when it was condemned.

Several property owners, in addition to Brody, are challenging the city. But so far have had little luck with the local courts. "I've never, never seen anything like this," says Mike Rikon, an eminent domain attorney with 33 years experience who is representing several Port Chester landowners. "Since the beginning you could open the book and go down chapter by chapter and point out the violations of the law."

Anthony Cerreto, village attorney, wouldn't comment because the matter is in litigation.

Bill Brody has taken the case to federal court. A hearing is scheduled on June 2nd.

"We have to get the legislative and judicial branches to revisit this takings issue so it's a little more friendly to the people," he says. "Because that's what the laws are supposed to be there for - the people not the government."

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