

Illinois

Known Condemnations Benefiting Private Parties ¹³³

Filed/Authorized Condemnations  10

Threatened Condemnations   116

Legend  = 10  = 100

Arlington Heights

In December 2005, Village trustees voted to approve a plan that would give developers Gershman, Brown and Associates and Strategic Real Estate Services three years to buy the International Plaza shopping center¹³⁴ and allow Village officials to pursue eminent domain if owner Su-Chuan Hsu refuses to sell.¹³⁵ The Village Board had declared the area “blighted” and created a tax-increment



40 businesses may be forced out of International Plaza in Arlington Heights so a private developer can build a SuperTarget.

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¹³³ These numbers were compiled from news sources. Many cases go unreported, and news reports often do not specify the number of properties against which condemnations were filed or threatened.

¹³⁴ “35-acre retail site Okd for upgrade,” *Chicago Tribune*, December 21, 2005, at 6.

¹³⁵ Abdon M. Pallasch, David Roeder, Eric Herman, “Court shows homeowners door; Development trumps property rights; Connecticut municipality wins in 5-4 decision,” *Chicago Sun-Times*, June 24, 2005, at FINANCIAL 65.

financing district in July 2002,¹³⁶ citing “chronic vacancies” in a shopping center with a 98 percent occupancy rate.¹³⁷ The 2005 vote accepted a plan that will replace one shopping option—more than 40 stores—with a different shopping option, SuperTarget.¹³⁸ The plan may also call for the replacement of three homes, the Kita Kata Japanese restaurant and an abandoned gas station.¹³⁹

Cary

Village officials, including Village President Steve Lamal, want to press forward with a redevelopment and tax increment finance district that would give the Village the power to use eminent domain to kick several businesses—including a pet-supply store, Cary Grove Automotive, Kojaks, Fairway Golf Cars, and the Cuckoo’s Nest bar and grill—off their prime real estate near Route 14.¹⁴⁰ The Village and developer hope to put 90 to 120 condos on the site instead. At the end of 2005, the developer began approaching the businesses with offers to purchase, and President Lamal had begun uttering the less-than-comforting assurances that eminent domain will only be used “as a last resort.”¹⁴¹

Des Plaines (Mannheim)

In yet another example of replacing small businesses with spiffier versions of the same thing, Des Plaines aldermen condemned a liquor store and a gyro shop on Mannheim Road in order to replace them with a strip mall containing Starbucks, Potbelly Sandwich Works and another fast food restaurant.¹⁴²

Des Plaines (Five Corners)

Des Plaines officials also have proposed creating a 96-acre tax increment financing district around the Five Corners intersection that will put homeowners and about 100 businesses at risk of eminent domain “as a last resort.” The plan threatened 220 residents of a mobile home park until they received an exemption

136 Redevelopment Commission, April 24, 2002. Proposed Village of Arlington Heights, Arlington Heights Road/Golf Road Redevelopment Plan and Project No. 4; Sheila Ahern, “Arlington Heights set to vote on SuperTarget plan,” *Chicago Daily Herald*, December 17, 2005.

137 Sheila Ahern, “A corner poor in progress, rich in question marks,” *Chicago Daily Herald*, January 9, 2006, at A1; Sheila Ahern, “Arlington Heights set to vote on SuperTarget plan,” *Chicago Daily Herald*, December 17, 2005, at 1.

138 Sheila Ahern, “A corner poor in progress, rich in question marks,” *Chicago Daily Herald*, January 9, 2006 at A1; “35-acre retail site Okd for upgrade,” *Chicago Tribune*, December 21, 2005, at 6.

139 Jon Davis, “Tax tool could improve site in Arlington Hts.” *Daily Herald*, March 5, 2002.

140 Megan Edwards, “Cary looks to tax districts for improving areas,” *Northwest Herald*, October 20, 2005, at <http://www.nwherald.com/communitysection/other/31750454885490.php>; Megan Edwards, “Cary merchants: offers too cheap,” *Northwest Herald*, November 3, 2005.

141 Megan Edwards, “Cary looks to tax districts for improving areas,” *Northwest Herald*, October 20, 2005; Megan Edwards, “Cary merchants: offers too cheap,” *Northwest Herald*, November 3, 2005; Kevin P. Craver, “Cary, FRG leaders dish out good news,” *Northwest Herald*, January 19, 2006, at <http://www.nwherald.com/communitysection/352519755942596.php>.

142 Ames Boykin, “Des Plaines OKs talks for new strip mall,” *Chicago Daily Herald*, October 18, 2005, at 4.

in March 2006.¹⁴³ More than 30 business owners and some residents have started the Triangle Business Owners Association to oppose the district because it brings with it the threat of condemnation.¹⁴⁴ In December 2005, the Planning Commission voted unanimously to recommend that the City Council re-zone the six-block area to make way for the business district.¹⁴⁵ The City may hope to replace the local, semi-industrial businesses like Maine Scrap Metal and Suburban Transmissions, with more upscale ones, but for now it is not saying.¹⁴⁶ Once there is a business district, City officials will accept proposals for developing the land that other businesses now own.¹⁴⁷

In May 2006, a consultant hired by the school districts, a park district and Maine Township—the other taxing bodies that would be affected by the redevelopment area—said that City officials “misrepresented and possibly overstated” the case for declaring the area blighted and that property values have been increasing in the area. Based on this information the joint review board voted against the redevelopment proposal. According to current Illinois law, however, the City can still move forward.¹⁴⁸

Lake Zurich

Although Village officials filed eminent domain proceedings against the owners of five houses and an apartment building—which they wanted for upscale condominiums in February 2005—they held off pushing the actions until after the *Kelo* decision came down.¹⁴⁹ “[*Kelo*] pretty firmly establishes in Illinois that under the Illinois ... law you can take private property for economic revitalization,” said Lake Zurich’s attorney, Mark Burkland



Richard Sustich

Officials waited until the *Kelo* decision before moving forward with the condemnation of this home in Lake Zurich.

143 Ames Boykin, “Des Plaines plan sparks development concerns,” *Chicago Daily Herald*, February 2, 2006, at 1; Ames Boykin, “Proposed legislation would add hurdle,” *Chicago Daily Herald*, May 3, 2006, at 7; “Mobile home park is spared by the city,” *Chicago Tribune*, March 7, 2006, at METRO 3.

144 Ames Boykin, “Businesses give name to their cause,” *Chicago Daily Herald*, October 25, 2005, at 3.

145 Jayne Matthews, “Collinsville revisits plan for Illinois 157 re-zoning,” *Belleville News-Democrat*, December 16, 2005.

146 Lisa St. Martin, “Touching Off On TIF,” *Journal & Topics*, December 21, 2005.

147 Elizabeth Donald, “Controversial business proposal put back on the table; Despite resistance, council may review disputed plan,” *Belleville News-Democrat*, December 4, 2005, at 3.

148 Ames Boykin, “Five Corners not blighted, consultant says; School districts vote no after report says city ‘misrepresented’ factors in quest for TIF,” *Chicago Daily Herald*, May 19, 2006, at 1.

149 Liam Ford, “Ruling on property rights makes owners vulnerable,” *Chicago Tribune*, June 24, 2005, at C17; Susan Kuczka, “Eminent domain battle squashed; Last owners accept Lake Zurich’s offer,” *Chicago Tribune*, April 21, 2006, at 7; Trine Tsouderos, “Land grab unnerves residents; Lake Zurich wants growth, gets dispute,” *Chicago Tribune*, March 23, 2005, at 1.

of Holland & Knight, after the decision came down.¹⁵⁰

In April 2006, the last of the remaining property owners, whose building had been in the family for generations, sold after dropping a counter-lawsuit contesting the ordinance giving the Village eminent domain authority, even though they did not believe the taking was for public use.¹⁵¹ According to Village administrator John Dixon, that meant the Village had acquired 34 properties by “mutual agreement.”¹⁵² Owners who feel forced into selling may disagree.

Machesney Park

In late 2005, Village officials filed a condemnation action against Barry Paye, who didn’t want to sell two parcels he owned, just so land could be consolidated for future private development. Officials envision attracting big-box stores to the area, which once held homes, to maximize sales tax revenue. Paye sold his properties, which had a

150 Abdon M. Pallasch, David Roeder, Eric Herman, “Court shows homeowners door; Development trumps property rights; Connecticut municipality wins in 5-4 decision,” *Chicago Sun-Times*, June 24, 2005, at FINANCIAL 65.

151 Susan Kuczka, “Eminent domain battle squashed; Last owners accept Lake Zurich’s offer,” *Chicago Tribune*, April 21, 2006, at 7; Madhu Krishnamurthy, “Property owners end fight against eminent domain,” *Chicago Daily Herald*, April 22, 2006, at 1; Jon Davis, “Imminent development? Crowd rallies against Lake Zurich plans to use eminent domain,” *Chicago Daily Herald*, March 27, 2005, at 3.

152 Madhu Krishnamurthy, “Property owners end fight against eminent domain,” *Chicago Daily Herald*, April 22, 2006, at 1.

Unnecessary Takings are the Norm

Shortly after the *Kelo* decision, in July 2005, a McLean County Circuit judge ruled that City officials could condemn five properties in Normal, Ill. that they wanted for John Q. Hammons, a private developer with plans to build a Marriott Hotel and conference center. Like so many cities seeking to condemn, there had been substantial private investment and recent building permits issued.¹ But that investment apparently didn’t compare to an upscale hotel. The owners ultimately settled.² Construction is set to begin in June 2006.³

1 Mary Ann Ford, “Judge: Normal can take land; Jury to decide how much property owners will be paid,” *The Pantagraph*, July 30, 2005, at A1; Mary Ann Ford, “Hotel waiting on land suit; City, property owners await court’s eminent domain ruling,” *The Pantagraph*, March 12, 2005, at 5.

2 Mary Ann Ford, “Town OKs price for properties; Normal agrees to pay about \$2 million,” *The Pantagraph*, August 10, 2005, at A1.

3 Mary Ann Ford, “Hotel set for 2008 opening,” *The Pantagraph*, March 15, 2006, at STATE AND REGIONAL NEWS.

three-bedroom house and a mobile home, in December 2005. “Basically, the village strong-armed me,” he said. “I settled because I didn’t want to go to court and spend more money dealing with them.” Paye was one of the last owners in the project area to sell.¹⁵³

Tinley Park

Officials are threatening the home of Peter and Frances Dennis, who have lived there since 1967, for a project that will include a massive condo development with a cinema and retail space. The City wants the Dennis home and several other residential properties nearby for the cinema’s parking lot. Asked if the City couldn’t build around them, Assistant Village Manager Mike Mertens said, “The [Village] Board needs to look at the bigger picture.” So far, the planning board has approved the \$65 million project and the Village Board is expected to vote on it by late spring or early summer.¹⁵⁴ According to Village Manager Scott Niehaus, it is not really taking property if the City pays better than fair market value, even though the owners “were very clear their preference would still be to be left alone.”¹⁵⁵

Troy

Two owners of 175 acres of farmland outside of St. Louis are facing eminent domain because they did not capitulate to the demands of Troy bureaucrats and their preferred developer, Jim Koman. The City Council approved an ordinance in October 2005 to begin the eminent domain process. Koman plans to build the Troy Town Center, with a Walgreens and Shop-N-Save on the farmland.¹⁵⁶ As of February 2006, the two owners were struggling in court to hold on to their property.¹⁵⁷

153 Isaac Guerrero, “Machesney sues for land parcel,” *Rockford Register Star*, November 24, 2005, at 14; Isaac Guerrero, “Putting a price on growth,” *Rockford Register Star*, December 29, 2005, at 9.

154 Carmen Greco, Jr. “Critics questioning plans for downtown,” *Chicago Tribune*, April 6, 2006, at 7; Jo Napolitano, “Tinley house sits in the path of \$65 million development; A plan for condos, shops and a parking lot could take away a couple’s longtime home,” *Chicago Tribune*, April 14, 2006, at 1.

155 Jennifer Golz, “Village offers homeowners \$500,000 for property,” *The Star*, April 30, 2006, at <http://www.starnewspapers.com/star/spnews/tp/30-tp1.htm> (retrieved May 31, 2006).

156 Jennifer Kapiolani Saxton, “Troy may force sale of land for retail development,” *Belleville News-Democrat*, October 5, 2005.

157 Jayne Mathews, “Farmland owners fighting Troy eminent domain suit,” *Belleville News-Democrat*, February 17, 2006, at B6.