



Ohio

Known Condemnations Benefiting Private Parties³⁸³

Filed/Authorized Condemnations  43

Threatened Condemnations  78

Legend  = 10  = 10

Bedford

In November 2005, City officials gave preliminary approval to using eminent domain to seize two small plazas and an empty building, part of an area known as Meadowbrook. City Manager Robert Reid Jr. admitted the properties are not blighted but the City wanted to see development happen more quickly than it has been on the private market.³⁸⁴ Before the City got around to condemning any property, however, the private owner made plans to build a Wal-Mart on the site.³⁸⁵ News reports do not reveal if the City still intends to proceed with condemnation.

Cleveland

In October 2005, Cleveland City Council members declared the East Bank of the Flats, which sits along Lake Erie, blighted.³⁸⁶ Many local owners think the blight designation is a sham. “You want to see where the Flats is blighted?” asks Jay Cvetovac, manager of the Beach Club, a popular nightspot. “Come here.

³⁸³ 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.

³⁸⁴ Thoms Ott, “Bedford seizes its chance to seize land,” *Plain Dealer*, November 9, 2005.

³⁸⁵ Janet H. Cho, “Wal-Mart proposing Bedford superstore; Meadowbrook location planned as anchor for the site,” *Plain Dealer*, April 15, 2006, at C1.

³⁸⁶ “City Council declares Flats blighted: Members want to create a thriving community,” *News Channel 5*, October 18, 2005, at <http://www.newsnet5.com/money/5115723/detail.html> (retrieved May 10, 2006); “Eminent domain may be used if Flats owners don’t sell: Developer hopes to begin construction by early 2006,” *News Channel 5*, November 2, 2005.

Look at this. It's all the buildings that Wolstein owns."³⁸⁷

He refers to "mega-rich" developer Scott Wolstein who wants to replace the neighborhood with a residential and retail complex. After buying several properties, Wolstein boarded them up and let them deteriorate so City officials could declare the whole area blighted. Armed with the blight designation, in April 2006, the Port Authority voted to use eminent domain on any of the 21 owners who were maintaining their properties and refused to sell to Wolstein.³⁸⁸

Despite the fact that the Flats' small business owners want to redevelop on their own, without subsidies, officials prefer to start the neighborhood over from scratch with a single developer who is relying on \$87 million from federal, State and local grants.³⁸⁹ Several property owners have proposed partnering with the project, but Wolstein insists on controlling all the property, including a parking lot that, under his plan, will remain a parking lot.³⁹⁰

In late May 2006, the Port Authority filed condemnations against four property owners.³⁹¹ A week later, the Authority filed against three more.³⁹²



"Blighted" property that will be razed for a residential and retail complex in Cleveland.

387 Michael Gill, "Moving heaven and earth; Flats business and property owners line up to oppose the \$230 million Wolstein plan," *Cleveland Free Times*, April 26, 2006.

388 Janet Dery, "Developer Scott Wolstein crafts his own 'art of the deal,'" *Cleveland Jewish News*, November 19, 2004, at 24; Jay Miller, "Domain debate looms; As Scott Wolstein's plan for the Flats' East Bank picks up steam, task force debates nonelected officials' rights to eminent domain," *Crain's Cleveland Business*, May 1, 2006, at 1; Michael Gill, "Moving heaven and earth; Flats business and property owners line up to oppose the \$230 million Wolstein plan," *Cleveland Free Times*, April 26, 2006.

389 Tom Breckenridge, "East Bank ripe for change, planners say," *Plain Dealer*, October 8, 2005, at B4; Brian Albrecht, "The Flats' east bank again looks to revival; Nightspots were where Cleveland loved to have fun," *Plain Dealer*, February 26, 2006, at A1; Sarah Hollander, "Give us more money or we'll revive the Flats ourselves, owners say," *Plain Dealer*, March 31, 2006, at B1.

390 Jay Miller, "Domain debate looms; As Scott Wolstein's plan for the Flats' East Bank picks up steam, task force debates nonelected officials' rights to eminent domain," *Crain's Cleveland Business*, May 1, 2006, at 1; Tom Breckenridge, "Condo plan brings criticism; Planners suspect Flats landowner trying to drive up the asking price," *Plain Dealer*, May 6, 2006, at C1.

391 Sarah Hollander and Christopher Montgomery, "Port seeks Flats lots by eminent domain," *Plain Dealer*, May 24, 2006, at C1; Sarah Hollander, "Port files 2 more eminent domain suits," *Plain Dealer*, May 27, 2006, at B6.

392 Christopher Montgomery and Sarah Hollander, "3 more sued over land for Flats project," *Plain Dealer*, June 7, 2006, at C1.

Lorain

The City Council voted to spend \$125,000 of taxpayers' money for a consulting firm to conduct a "blight" study of 100 lakefront acres, which include 57 homes and six commercial buildings.³⁹³ Should Gould & Associates "find" blight, the City Council can designate the area blighted and qualify for federal and State funds to redevelop it. The blight designation also empowers the City to use eminent domain to take the historic and newly restored homes currently located there.³⁹⁴



Rich Robbin

Lorain officials have taken a first step towards the use of eminent domain in this neighborhood—commissioning a blight study—despite protests from homeowners.

More than half of the area belongs to the Port Authority and in October 2005, Port Authority board members voted to chip in \$25,000 to pay for the blight study on its own land despite pleas from residents to withhold support. Residents are particularly concerned because there have been discussions about putting a casino in the neighborhood.³⁹⁵ "Maybe you don't understand it because you don't live there," said Renee Dore, whose home City officials want to raze and turn into a parking lot for a proposed casino. "You can't understand the feeling when the Supreme Court says [the City] can come in and take your homes for private development. I don't want to leave."³⁹⁶

Residents think the blight designation is a foregone conclusion—the redevelopment area encompasses not only the residential neighborhood but also a

393 Shawn Foucher, "Resident fears losing home to blight plan; Port board approves redevelopment study," *Chronicle-Telegram*, October 12, 2005; Lakefront Area Blight Eligibility Study and Neighborhood Urban Renewal Plan, February 3, 2005.

394 Mike Sakal, "Blight study to include historic property," *Morning Journal*, October 19, 2005, at http://www.morningjournal.com/site/index.cfm?newsid=15411643&BRD=1699&PAG=461&dept_id=566374&crfi=8 (retrieved May 30, 2006); Shawn Foucher, "Resident fears losing home to blight plan; Port board approves redevelopment study," *Chronicle-Telegram*, October 12, 2005.

395 Mike Sakal, "Molnar wants approval of casino deal repealed," *Morning Journal*, September 13, 2005, at http://www.morningjournal.com/site/index.cfm?newsid=15200992&BRD=1699&PAG=461&dept_id=566374&crfi=8 (retrieved May 30, 2006).

396 Shawn Foucher, "Resident fears losing home to blight plan; Port board approves redevelopment study," *Chronicle-Telegram*, October 12, 2005; Jim Konkoly, "Ohioans grapple with eminent domain," *Mansfield News Journal*, March 28, 2006, at 1A.

nearby industrial brownfield (owned by the Port Authority). Thus, it won't matter if the residences are not blighted.³⁹⁷

South Euclid

On October 17, 2005, City Council members voted to use eminent domain to take three-dozen parcels in the Cedar Center shopping mall, which has a dozen different owners. The City wants to replace the 50-year-old mall with a new five-story building with shops, apartments and condos built by Caitlin Properties and Contrende Co. As of October 2005, the center had a Judaic bookstore and a gym among its tenants.³⁹⁸ According to South Euclid's Economic Development Manager Cal Caminati, the Cedar Center is a menace to health, safety and welfare. Also, the parking lot doesn't provide for smooth traffic flow. Although one property—an abandoned theater—is in very bad shape, the City knew the condition of that property as early as February 2004. Twenty months later, the City took steps to condemn the abandoned theater and more than 30 of its neighbors, including fully functioning businesses.³⁹⁹ News reports do not indicate whether the City proceeded with the condemnations.

397 Jim Konkoly, "Ohioans grapple with eminent domain," *Mansfield News Journal*, March 28, 2006, at 1A.

398 Thomas Ott, "S. Euclid ready to take Cedar land," *Plain Dealer*, October 17, 2005, at B3; Thomas Ott, "S. Euclid may use eminent domain; City's future riding on updating Cedar Center, officials says," *Plain Dealer*, September 20, 2005, at B3.

399 Jeff Piorkowski, "Cedar Center will get total makeover," *Sun Newspapers*, October 13, 2005; Thomas Ott, "S. Euclid ready to take Cedar land," *Plain Dealer*, October 17, 2005, at B3.

Ohio Court Points to *Kelo* to Rule Against Property Owners

Four restaurant owners in Clifton Heights sued in federal court in March 2003 to stop the condemnation of their properties for a massive private development project to include condos, townhouses and retail space.¹ Joe Kennedy, who runs Acropolis Chili with his wife Kathy, Bob Wood, who runs Inn the Wood with his wife and son, and the Clif-Cor Corporation, which owns the lots on which a Hardee's and Arby's sat, called the City's blight study "a sham." The federal court declined to hear the case while a state court evaluated the constitutionality of the takings.² Then, in January 2005, the Hamilton County Common Pleas judge ruled against the owners.³ The owners then asked the federal court to finally hear their case, alleging that the state court did not adequately address the constitutional issues. On August 19, 2005, the federal court cited *Kelo* and told the owners that they should appeal through the state court system and that their case would not be heard in federal court.⁴ Given that *Kelo* virtually removed any federal constitutional protection for owners against takings for private use, it is hard to imagine that litigating in state court could be any worse for property owners.

1 Dan Horn, "Businesses sue to stop land seizure," *Cincinnati Enquirer*, March 20, 2003; Lori Kurtzman, "Holding out," *Cincinnati Enquirer*, March 2, 2005, at 1A.

2 *Calboun Realty Inc. v. City of Cincinnati*, 311 F. Supp. 2d 640 (S.D. Ohio 2005); Dan Horn, "Businesses sue to stop land seizure," *Cincinnati Enquirer*, March 20, 2003; Lori Kurtzman, "Holding out," *Cincinnati Enquirer*, March 2, 2005, at 1A..

3 "Another eminent domain fight gets ugly," *Business Courier*, Vol. 21, No. 4, May 21, 2004, at 1; Lori Kurtzman, "Holding out," *Cincinnati Enquirer*, March 2, 2005.

4 *Calboun Realty Inc. v. City of Cincinnati*, 311 F. Supp. 2d 640 (S.D. Ohio 2005).