

Balancing Redevelopment and Property-Owner Rights

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The New Jersey Legislature confronts the daunting task of balancing the constitutional rights of property owners with the need to revitalize distressed neighborhoods through the use of the state's redevelopment laws. Activity in the Legislature suggests that the state's elected officials are taking the issue seriously. As they work to rationalize the law, here are some points they should keep in mind.

Threshold Issue—Blight The New Jersey Constitution limits the use of eminent domain for redevelopment to "blighted areas." Over the years, the legislature and courts have expanded this definition beyond reason and included properties that are not being "properly utilized" or "other conditions, resulting in a stagnant or not fully productive condition of land." As is sometimes said, under this definition, 70 percent of the state meets this vague definition.

A proper balance would be to tighten the definition of blight and make it clear that the condemning authority, not the property owner, bears the burden of proving by "substantial credible evidence" that the property is blighted or in need of redevelopment.

Adequate Notice Public notice published in a newspaper is a poor means of advising people that their elected officials are considering taking their properties. The law needs to be reformed so that property owners and tenants are provided with written notice mailed to their homes or businesses in a timely fashion advising them that their property is being considered for a redevelopment plan that may result in the taking of their property. The notice for ordinances adopting redevelopment plans that entail the taking of private property should invite property owners to obtain a copy of the planner's report or redevelopment plan. Before the adoption of a redevelopment plan, a summary report should be mailed to each property owner in the area with an invitation to attend the formal meeting when the topic will be discussed or adopted.

Compensation and Relocation Benefits Under the present law, compensation is often inadequate and the relocation benefits minimal, at best. Residential property owners often are not paid enough money to find replacement housing, and mom and pop businesses are unable to find new locations conducive to their business.

In terms of residential condemnations, the law needs to be revised to set a minimum threshold of valuation equal to replacement housing. Under the present law, the property owner is entitled to the fair market value of the property being taken. Oftentimes, the amount paid to the property owner will not enable the person to obtain comparable housing within a reasonable area.

As for businesses, New Jersey law only requires a condemning authority to compensate a property owner for the real estate—dirt, brick and sticks—not the business itself. The only requirement is to relocate the business. Oftentimes, a business is dependent upon a certain location, such as a downtown location, and cannot afford a rent increase. If there are no affordable business locations available, the business may be forced to close. The law needs to be reformed to take into consideration rent differentials and allow business owners an opportunity to prove that additional compensation is needed to assure their survival.

Redevelopment is a vital part of the New Jersey economy and important not only to the construction industry but to municipalities that are seeking to increase their tax revenues through redevelopment. Many distressed cities need the public-private partnerships in order to encourage a turnaround of neighborhoods. The New Jersey Legislature needs to allow legitimate redevelopment to continue, but provide protection to property owners in the form of notice and adequate compensation.

Timothy P. Duggan is chairman of Stark & Stark's Condemnation Group and can be reached at (609) 895-7353 or tduggan@stark-stark.com.