

The eminent domain game is rigged

BY NICK SPRAYREGEN

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Sadly for all New Yorkers, our state is the most egregious perpetrator of eminent domain abuse in our country. I should know since for the last four years I have battled the state and Columbia University - a private entity - in their threatened use of eminent domain. Columbia wants my land in West Harlem to assist the school in a planned 17-acre expansion in the Manhattanville neighborhood.

The university is in league with the state, and together they are threatening to wield this extraordinary power to take away a business my family has built over decades.

This is dead wrong.

COUNTERPOINT: WE NEED EMINENT DOMAIN TO KEEP CITY GROWING

Defenders of the system say eminent domain is necessary to allow for big economic development and housing projects to go forward. They liken today's use of eminent domain to yesterday's use, when property was condemned for the building of roads, fire houses and public libraries. Today, however, what the practice really amounts to is the state playing favorites, choosing one private interest over another - and abusing a government power that should only be wielded in the most limited of circumstances.

The game is rigged, in multiple ways.

LOUIS: THE RIGHT WAY TO FIGHT BLIGHT

Start with how New York paves the way for private property to be condemned using eminent domain. In order to take a house or a business or a piece of land (and, yes, pay "fair market" value to the owner in return), the state must first make a determination that the area in question is "blighted."

But what makes an area blighted? Nothing but the arbitrary determination of the state's Empire State Development Corp.

The ESDC does not have any written standards as to what constitutes blight - nor any written standards for how such alleged conditions should be evaluated. As a result, findings of blight allow for endless discretion. That results in discriminatory treatment. I believe that the blight statutes are therefore a violation of due process guaranteed by the U.S. Constitution.

In the case of West Harlem, the blight study is corrupted further because it conveniently ignores the role of Columbia. The university owns 80% of the land in Manhattanville. Columbia has had direct and indirect roles in creating, magnifying and ignoring poor conditions in their own buildings. This is not an allegation. It is completely documented. Columbia could therefore wind up being the sole beneficiary of eminent domain despite its own "dirty hands." This is wrong.

And here's the most frustrating part of all. After an area is designated as blighted and condemnation proceedings are announced, the person whose property is being condemned has no power - zero - to challenge the condemnation in a trial court. This makes eminent domain proceedings in New York different from those in every other state that I am aware of. Instead, property owners are required to file the lawsuit at an appellate court - where no witnesses are allowed, there is no cross-examination, there is no opportunity to raise new evidence and there is no right to discovery. Adding insult to injury, one's attorney is allowed, at most, 10 minutes to speak to the judge. This is inherently unfair.

Indeed, the entire eminent domain process works backward. Instead of a town or city first coming up with a comprehensive plan that involves community input and is shaped and formed through a deliberative and democratic process (with the developer only chosen by competitive bidding at the end), large, politically connected private entities typically go straight to the municipality with a plan that they themselves have hatched. As a result, these plans principally benefit a developer, not the people.

In the case of the threatened use of eminent domain in West Harlem, the entire plan, from start to finish, has been orchestrated by Columbia for its own benefit. It is at its core a private development. And that's particularly ethically wrong because in this case, there was a truly comprehensive plan on the table - one that had been carefully prepared and developed by the entire community and thus represented the true wishes of the people. That plan, written by Community Board 9, was ignored. And of course it involved no eminent domain.

New York's eminent domain process is fundamentally unfair. The state's abuse of these powers has run amok. The law must be changed if private property - the people's property - is to be respected.

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