

## Eminent domain authority opposed

### Law institute wants to prevent extension

By **Tanya Sierra**  
STAFF WRITER

July 5, 2007

National City officials, battling to extend their eminent domain authority, are facing a new foe – the law firm that represented Connecticut homeowners in a case that landed in the U.S. Supreme Court two years ago.

Lawyers from the Institute for Justice, a nonprofit civil liberties law firm based in Washington, D.C., have filed with the city clerk a 34-page letter opposing the city's plan to extend its authority six to 12 years. The current authority to declare eminent domain expires in August.

Eminent domain allows government to take so-called blighted private land to make way for new development. Landowners are paid market rate for the properties.

The institute's letter outlines 14 objections to National City's plan and is supplemented with its own voluminous research of the city's redevelopment area. The group filed the letter June 19, the same day the city held a public hearing to discuss extending its eminent domain authority. The council will vote on the extension this month.

The institute is fighting the city on behalf of the Community Youth Athletic Center, whose building sits in the path of a proposed condominium project. The center is a longtime community fixture, known for transforming troubled youths into skilled boxers and good students.

The building on National City Boulevard is in a redevelopment zone. City officials say the building's owners knew about the redevelopment zone when they moved in and that it should have come as no surprise when a developer stepped forward two years ago with a proposal.

Carlos Barragan Jr., who founded the club with his father, said they didn't know the building was in a redevelopment zone.

“I was just looking for a place,” Barragan said.

City officials say they don't want to shut down the youth center and have been trying to find the group a new home.

The developer who wants the property, Jim Beauchamp, would not talk about his 24-story condo project for this story.



SOURCES: City of National City;  
 Community Youth Athletic Center

UNION-TRIBUNE

Institute for Justice lawyers said they are representing the youth center because the case epitomizes how government caters to rich developers.

“What is happening in National City is one of the worst cases of eminent domain abuse in the country,” said Dana Berliner, a Washington-based attorney who represented homeowners in the *Kelo vs. New London, Conn.*, eminent domain dispute.

In that case, the U.S. Supreme Court ruled in 2005 that governments could force private property owners to sell their land to spur economic development.

An auto-shop owner, whose business is being condemned under National City's eminent domain, told the Institute for Justice about the youth center's fight.

“California is one of the states that has been using eminent domain very aggressively for private development,” Berliner said. “We think it's ripe for the California Supreme Court. The last time they even looked at an eminent domain case for private development was in the 1970s.”

The use of eminent domain has angered property owners around the country, prompting ballot initiatives and protests aimed at curtailing the power.

California voters last year defeated Proposition 90, which would have stopped government from taking private land for commercial ventures. Proposition opponents said it would have resulted in huge payouts to landowners who would claim their property's value was being threatened by eminent domain. They also said it would have hampered government's ability to protect the environment.

In San Diego, a Gaslamp Quarter cigar shop was condemned three years ago to make way for a hotel. Excavation for the hotel has not begun, and the land where the Gran Havana cigar shop stood is now used as a parking lot.

The hotel developer has asked for more time to finish the project, which was supposed to be built by September 2008. The cigar shop is gone, but the owner's appeal of the eminent domain action still is pending in court.

In National City, officials used eminent domain to improve part of National City Boulevard, which once was referred to as the “Mile of Bars.” The city cleared out prostitutes, dilapidated buildings and X-rated theaters and replaced them with an education village.

“These groups go around and throw out all this rhetoric all over the place,” Mayor Ron Morrison said. “This group is coming all the way from Arlington, Virginia, to throw hand grenades and then go home and write it up in their national newsletter.

“Show the example of abuse, don't just use the term abuse.”

Berliner, the Institute for Justice lawyer, said the method the city uses to designate an area blighted is a “sham.”

The city hired a consultant to analyze the city's redevelopment area and describe blighted conditions. The report does not list addresses but includes photos of rusting metal roofs, damaged exteriors and broken windows.

It was released June 14.

“The blight study is ridiculous,” Berliner said. “It doesn't list any properties. The idea that they think they could come out with that three business days before the hearing is absolutely astonishing.”

Morrison said the city was merely petitioning to retain its authority and not expand it to other areas, so there was no need to rush the consultant's report to the public. In fact, he said, officials strengthened the language to make it clear that residential property was not subject to condemnation.

“They should be standing up and applauding us,” Morrison said. “Their mantra is they're against eminent domain no matter how much sense it makes.”

Berliner said that if the city renews its authority, which it is expected to do, the institute might sue.

“What we're hoping we can do for the (Community Youth Athletic Center) is enable them to stay in their building,” Berliner said.

---

■Tanya Sierra: (619) 498-6631; [tanya.sierra@uniontrib.com](mailto:tanya.sierra@uniontrib.com)

[»Next Story»](#)

---

**Find this article at:**

[http://www.signonsandiego.com/uniontrib/20070705/news\\_1m5ncdomain.html](http://www.signonsandiego.com/uniontrib/20070705/news_1m5ncdomain.html)

Check the box to include the list of links referenced in the article.