

Eminent Domain for Private Business Development?!?!?

I just read press releases from Rep. Liotta, Sen. Crain, and Sen. Jolley regarding the recent decision by the Supreme Court regarding use of eminent domain by local government. They intend to pursue legislation or studies to make sure your property and mine are protected from potential wrongful taking. I have mixed feelings of protecting my property vs. the good of the community. This message is not to debate that issue. I do think we have several statutes in place in Oklahoma to help prevent abuse of eminent domain. What would be far better is to lessen the impetus for using eminent domain for the purpose of private business development. That, I believe is a much more important issue.

All you have to do is answer for yourself one simple question. Why would a City in Oklahoma want to exercise eminent domain and take personal property simply to build a major shopping mall? Cities in Oklahoma cannot collect ad valorem taxes for operating expense, so it must not be the increase in assessed valuation that they are after. Overall Oklahoma has a very low unemployment rate, so I don't think job creation is what they are after. However, the primary and largest source of operating revenue for Cities and Towns in Oklahoma is local sales tax! Aha! That must be why those cities are going after those development projects.

If a city has 20,000 or 50,000 citizens to provide police, fire, streets, and other municipal services for, it must by necessity collect their local taxes. If the city doesn't have any retail stores (or only a few) inside the city limits there are no "local tax collectors". No collectors - no local tax income. No local tax income – under funded police, fire, streets, and other services. Citizens shop somewhere else and some other city gets the local taxes they could not pay at home. Oklahoma laws on local government finance are somewhat unique in this respect compared to the other 49 states. Until the State legislature is willing to tackle the job of repairing the outdated and broken system of inequitable distribution of local taxes in Oklahoma, you are putting more and more pressure on local governments to use whatever means available to get new tax collectors (malls and shopping centers) inside their city limits, and that includes eminent domain where necessary.

I sincerely want to protect and preserve our rights to own property. You might think of governments taking private property for business development as a disease. We need to do something about the pathogen that is causing that disease. One of the pathogens in many cases may well be our statutory provisions for local government taxation. If the Legislature does not try to cure the disease, cities will continue to try to ease the symptoms by taking personal property and replacing it with retail business.

Former Speaker Pro Tem of the Senate earlier this year, requested the Oklahoma Municipal League to form a task force or study group to address this issue and report back to the legislature. I am not sure as to the status of the study, but am looking forward to their report. Hopefully, it will facilitate the job ahead.

All of us who value our right to own property should be asking our elected State Legislators to fix the local tax structure in Oklahoma, to help reduce the pressure which often leads to use of eminent domain.

Dan Galloway, City Manager
City of Bethany
6700 NW 36th St.
Bethany, OK 73008
(405)789-5005