

THE TWO RIVER TIMES

www.tworivertimes.net

net

Web

NEWS

SPORTS

CLASSIFIEDS

BESIDE THE POINT

THEATRE

SUBSCRIBE

TRT THE BOOK

SEND YOUR...

ADVERTISE

PHOTO REPRINTS

PRESS RELEASES

ARCHIVES

NEWS

LB Officials: Public Advocate Didn't Read Ruling Public Advocate ill-informed on eminent domain issue, mayor charges

By Matt Lynch

LONG BRANCH - On the heels of an appellate court decision rejecting a motion from the city's attorney attempting to bar the Institute for Justice from serving as co-counsel for a group of residents fighting the city's use of eminent domain, some city officials have turned their gaze towards another high-profile MTOTSA supporter: New Jersey Public Advocate Ronald Chen.

As first reported in the The Asbury Park Press, late last month Mayor Adam Schneider wrote to state Sen. John H. Adler, chair of the Senate Judiciary Committee, Gov. Corzine and Chen seeking redress for what the mayor perceives as the failure of the public advocate to "do his homework" before publicly supporting the MTOTSA (an acronym for Marine Terrace, Ocean Terrace and Seaview Avenue) residents and criticizing the city's redevelopment.

Schneider said that an encounter with Chen during the annual League of Municipalities meeting in Atlantic City in November caused him to believe that Chen has not read Judge Lawrence M. Lawson's June ruling upholding the city's use of eminent domain throughout the equally ambitious and divisive oceanfront redevelopment.

Lawyers for the MTOTSA homeowners, including the Institute for Justice and Peter Wegener of the Ocean County law firm of Bathgate, Wegener & Wolf have appealed the ruling. Chen has said publicly that he intends to file an amicus brief or "friend of the court" on behalf of the homeowners.

"Specifically, I asked him, 'Have you read the opinion?'" Schneider said in a telephone interview Tuesday recounting his conversation with Chen in Atlantic City. "He was like, 'I don't remember.' I knew right then and there that he hadn't [read Lawson's ruling]. That was just a horrible, horrible answer."

On Tuesday, a spokesman for Chen said that he was unavailable for comment.

However, he did forward an e-mail message from the public advocate.

Though the statement is critical of the city's redevelopment, it provides no answers in regards to Chen's reading of Lawson's ruling.

"We have talked with local officials and citizens across New Jersey, including the Mayor of Long Branch and residents in the MTOTSA neighborhood," it reads in part. "In this case, we question whether the use of eminent domain was appropriate and at a minimum. We believe that the property owners had a right to a full hearing because there were significant factual issues in dispute by the two sides."

The implementation of Beachfront North Phase II - approximately 185 high-end condominium units, a 10,000 square foot community center and various infrastructure improvements - hinges in large part on the MTOTSA appeal. Appellate briefs are due by Jan. 3 though an Institute for Justice lawyer said this week that it is possible the deadline could be pushed back because of the holidays.

The developers are Applied Development Companies and its partner Matzel & Mumford a subsidiary of one of the nation's largest real estate developers K. Hovnanian.

Though Schneider views his letter-writing campaign as an effort to hold a public employee accountable for a "lack of effort" and taking "nothing more than a political stance on a very significant issue," critics of the administration's use of eminent domain, see other motives.

Institute for Justice attorney Jeff Rowes argues that the city's recent actions show that they are systematically attacking the coalition supporting the MTOTSA homeowners.

Calling the attempt to bar the Institute for Justice "ridiculous," Rowes added, "This doesn't sound like a group of people who are confident in their case."

At a council meeting Tuesday evening, James Keelan, the owner of a Belmont Avenue business threatened by the Broadway redevelopment plans, said that these actions were an attempt to "take our right to a fair trail."

"Finally we get some help here, and you try and take that away?" a visibly angered Keelan asked.

Schneider said earlier Tuesday that this is simply not the case. Regarding the Institute for Justice, the mayor said they were, "looking for them to follow the rules and now according to the appellate court they have."

As for Chen, Schneider does not doubt that the public advocate understands the overall issue of eminent domain. Prior to assuming the position of the public advocate, Chen served as an associate dean at Rutgers University Law School where he earned his law degree. Following his appointment from Gov. Corzine, Chen completed a 45-page study on the use of eminent domain in New Jersey. The report was highly critical of the current statutes governing eminent domain in the state and called for a number of reforms.

In this instance, the mayor believes that Chen failed to do the necessary research to understand how the process has evolved specifically in Long Branch. According to Schneider, Chen also failed to review other city documents related to the redevelopment process and the use of eminent domain dating back to 1994.

"You can disagree with what we are doing," Schneider said on Tuesday. "Everybody has the right to do that, but when you are in his position you have a responsibility to look at both sides."

Since the mayor sent out the letters, the two sides have been in contact, and according to the mayor, a meeting has been set up. Schneider said his goal is not to keep Chen from filling an amicus brief. "He can file his amicus brief," the mayor said. "I don't care at all."

Though the mayor continues to encourage lawyers for the MTOTSA residents to return to negotiations, Rowes said that the likelihood of a second meeting has been damaged by the attempts to bar his organization from serving as co-litigants. While not ruling out future talks, Rowes added, "We feel like this was just so devious and despicable that we are not worrying about negotiations right now."

The other members of the governing body were asked at Tuesday's meeting if they had prior knowledge of the mayor's intentions or actions before reading about it in the newspaper.

While Councilman Brian Unger said he did not, but other members of the governing body, specifically, Councilmen David Brown and Anthony Giordano said that they had discussed the issue with Schneider prior to his writing the letters and speaking out against Chen.

[ABOUT TRT](#) | [CONTACT US](#) | [SUBSCRIBE](#) | [ADVERTISE](#) | [ARCHIVES](#) | [LINKS](#)

© 2006 The Two River Times