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## Officials must involve public in redevelopment talk

By *BRIAN UNGER*

Contrary to comments made at a recent real estate development conference at Monmouth University, public distaste for eminent domain is not in decline.

The conference panel was chaired by a K. Hovnanian development executive, and staffed with Long Branch's pro-eminent domain mayor and city attorney, as well as private development lawyers and real estate executives. There was no opportunity for public comment, questions or debate.

Public distrust of big government projects funded by corporate developers will only increase as more citizens demand that redevelopment of their neighborhoods and business districts be sustainable and collaborative, rather than dominated and directed by government officials and large developers operating in secret and in concert.

Almost invariably, these developers and their lawyers, consultants and vendors are the same individuals who fund the election campaigns of the politicians directing the redevelopment. This is "pay-to-play" and refers not only to a powerfully inbred financial system but also to a political system that operates in the dark and is highly resistant to public debate.

This is nothing new. For centuries, the wealthy and powerful have successfully taken property away from working families under the pretext that the land was not "fully productive." In England from 1700 through 1850, the landed aristocracy created a system called "enclosure." Backed by a new class of politically motivated agricultural economists, rich landowners convinced a corrupt Parliament to confiscate millions of acres of common fields for which poor farmers had centuries-old rights to raise crops and graze livestock.

The economic development theory behind enclosure was that it would be "more productive" if rich farmers and aristocrats controlled all the valuable farmland. Enclosure is considered one of the biggest land grabs in history.

Similarly, in New Jersey in the 17th and 18th centuries, upper-class Scottish immigrants sought to impose a feudal system of land rents (called quitrents) on colonial farmers who had been tilling New Jersey's provincial wilderness for a century or more before the Scottish aristocrats arrived. New Jersey's early land wars persisted for 100 years, including here in Monmouth County, before the English government ruled against the claims of the wealthy interlopers.

Luckily for us, governmental taking of residential property was substantially narrowed by the state Supreme Court in the 2007 Paulsboro case. State appellate courts have applied this landmark decision in many other cases to rein in the confiscation of residential properties for private economic gain. Unfortunately, some of my governmental colleagues in Long Branch find themselves politically more akin to 18th century English aristocrats than representatives of the people in a democratic society.

They may not like the new legal landscape, but recent court rulings clearly reject some of the bases upon which Long Branch made its eminent domain determinations more than a decade ago. This is why municipalities around the state, such as Neptune, are voluntarily limiting use of eminent domain to its traditional purposes such as roads, schools, bridges and public buildings.

Let's take the initiative and discuss and debate the recent eminent domain rulings and the collapsing real estate market in an extended open public forum, not just defensively and derisively during the scant five minutes allowed during council meetings.

When the federal government fails to act, states have the authority and moral obligation to do so. When state government fails to act, municipal governments have the right and the responsibility to do so. The best way to ensure that municipal government limits eminent domain to lawful applications is to incorporate the Paulsboro decision into local municipal land use law. Changed legal authority and the meltdown of the mortgage and housing markets make it a perfect time for a reality check on eminent domain.

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