STATEN ISLAND
BUSINESS
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Eminent domain

There could be true benefits for the City

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For Business Trends

Last June, the United States Supreme Court decided, in a highly charged property rights case, Kelo v. City of New London, that the acquisition of private property by eminent domain for economic development was a valid "public use" under the Fifth Amendment to the Federal Constitution.

Eminent domain is the power of the government to acquire private property for public use, provided that just compensation is paid to the owner for the property acquired. It is a vital economic tool that allows local governments to acquire and assemble land for many public uses, including schools, parks, hospitals, transportation centers and development projects that generate new jobs, investment and tax revenue. The term "public use" has been the subject of widespread debate, and in Kelo's wake, there has been a backlash against the use of eminent domain across the country. Indeed, since Kelo, there is a misperception that local governments are forcing homeowners from their property in huge numbers, and that homeowners have no protections against arbitrary government seizure of their homes. For New Yorkers, these fears are misplaced, as the Kelo decision affects no change whatsoever in New York State. Kelo simply upheld the long-standing doctrine that economic development is a "public use."

The use of eminent domain is rarely a government's first choice: it is costly and time-consuming, but it can be necessary to achieve a greater good. It is crucial to the fiscal health of New York State and its municipalities, and under existing New York law, is a necessary part of a carefully considered plan of economic development. To illustrate the benefits of eminent domain, one must look to examples where eminent domain was utilized to benefit New York City.

Lincoln Center

In the 1950s, the area just to the south of what is now called Lincoln Center consisted of increasingly run down buildings and blight. In the 1960s the city, exercising the power of eminent domain, created Lincoln Center for the Performing Arts, which in turn spurred tremendous private residential development throughout the whole upper west side.

Times Square

In the 1970s Times Square – one of the great symbols of New York – became a national showcase for urban decay and blight. Crime was rampant and the Broadway theaters struggled to exist in the midst of peep shows and run-down buildings. With the assistance of eminent domain, 13 acres in and around Times Square were reborn as a tourist friendly location.

Metrotech

In the 1980s, much of the area around the Brooklyn Bridge was blighted and underutilized. In partnership with a local university, the city, utilizing where necessary its power of condemnation, transformed this area into Metrotech, an urban office park that, in turn, has attracted additional development activity, including Brooklyn's first new hotel since the 1930s. City statistics show that Metrotech is responsible for millions of dollars in sales, property and income tax revenues every year, and the New York Times has called Metrotech "easily New York City's leading phased office development project, second in scale only to [the] . . World Financial Center at Battery Park City."

In the past 10 years, eminent domain has been used to create more than 249 acres of wetlands and more than 72 acres of parkland on Staten Island. Beginning in the late 1980s, the City's Department of Environmental Protection pioneered a creative approach to controlling the chronic street flooding on Staten Island's south shore, the last remaining large portion of New York City not served by the public sewer system.

The city has used its power of eminent domain to acquire more than 249 acres of land for DEP's "bluebelt system," which preserves and restores streams and ponds and other wetland areas for storm water management, and alleviates the need for sewers. The bluebelt system has been a huge success, and it is anticipated the city will acquire an additional 197 acres of land in the upcoming years for other bluebelt systems in Staten Island.

Eminent domain is a valuable tool that has created much needed parkland, open space and natural drainage on Staten Island. If appropriate, this power could also be utilized to revitalize the other areas of Staten Island that have been resistant to development.

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