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Political Plundering of Property Owners

by James Bovard

For the first 175 years of the American republic, it was clearly recognized that government should not casually seize people's property and give it to other people for their private use. The Supreme Court ruled in 1937 that "one person's property may not be taken for the benefit of another private person without a justifying public purpose, even though compensation be paid."

Recent decades, however, have witnessed a collapse of judicial restraint on legislatures' and city councils' proclamations of public purposes. Nowadays, anything that benefits some politician or some political-interest group is practically considered a bona fide "public purpose."

Urban renewal was launched in 1949 to achieve, among other goals, "the realization as soon as feasible of the goal of a decent home and a suitable living environment for every American family." Between 1949 and 1971, however, urban renewal razed five times as many low-income housing units as it created and evicted more than one million people from their homes.

In one of the first major challenges to the federal urban-renewal program, a federal district court struck down a Washington, D.C., land-seizure program in 1953:

"There is no more subtle means of transforming the basic concepts of our government, or shifting from the preeminence of individual rights, to the preeminence of government wishes, than is afforded by redefinition of 'general welfare,' as that term is used to define the government's power of seizures.... In essence the claim is that if slums exist the government may seize, redevelop and sell all the property in any area it may select as appropriate, so long as the area includes the slum area. This amounts to a claim on the part of the authorities for unreviewable power to seize and sell whole sections of the city."

But in November 1954, the Supreme Court overturned the federal district court and effectively gave government officials unlimited power to confiscate and redistribute land. Justice William Douglas, writing for the Court, declared,

“The concept of the public welfare is broad and inclusive. The values it represents are spiritual as well as physical, aesthetic as well as monetary. It is within the power of the legislature to determine that the community should be beautiful as well as healthy, spacious as well as clean, well-balanced as well as carefully patrolled.”

Douglas concluded,

“Once the object is within the authority of Congress, the right to realize it through the exercise of eminent domain is clear.... The rights of these property owners are satisfied when they receive that just compensation which the Fifth Amendment exacts as the price of the taking.”

The Supreme Court’s decision opened the floodgates to confiscation in the name of renewal. While the Supreme Court effectively showed unlimited faith in the motives and competence of local government officials, the projects themselves rarely succeeded. As Martin Anderson, the author of the great history *The Federal Bulldozer*, observed, “Buying, moving, and destroying has proved much easier to accomplish than building.”

The Washington, D.C., project that the Supreme Court approved was a near total flop. The city government, in its brief to the Supreme Court, promised that one-third of the new homes built would be low-rent housing to accommodate poor people displaced by the project. But as a *Pacific Law Journal* article noted,

“No low-cost housing was built in the project area”; instead, “the redevelopers constructed a shopping mall and a complex of high-rent apartments and town houses.”

Gideon Kanner, professor at Loyola Law School, Los Angeles, observed,

“Urban redevelopment is essentially a wealth transfer program — it now has nothing to do with slum clearance. All kinds of people are getting thrown out of their homes and businesses and they are undercompensated and the land is turned over to a redeveloper who typically puts up a shopping center and makes a fortune.”

Urban renewal is based on blind confidence in government planners to coercively reshape American cities. Like Marx, who assumed that utopia would almost automatically occur after the

destruction of capitalism, urban planners often act as if the destruction of low-income housing will automatically beget urban utopias.

Urban renewal has often been called “Negro removal” because in its first 13 years, more than two-thirds of the people evicted from their dwellings were black or Puerto Rican. By sharply reducing the supply of low-income housing without reducing the number of low-income people, urban renewal drove up the rent for the lowest-quality apartments and dwellings in many areas. The General Accounting Office concluded in 1963 that urban renewal “contributed to a shortage of housing for low- and moderate-income families,” thus harming the people the program was allegedly intended to help.

Federal community development funds are still bankrolling the razing of large areas of American cities. Tom Gogan, a New York City housing activist, reported that since 1979 federal funds have helped pay for the destruction of as many as 30,000 apartments in New York City. In Asheville, North Carolina, federal funds helped pay for the destruction of 190 low-income housing units between 1979 and 1987. Almost half of the low-cost housing units in downtown Cincinnati were destroyed as a result of redevelopment activities during the 1970s, with even more destroyed in the 1980s.

The Boston Redevelopment Agency proudly announced in 1990 that it would begin building housing for families displaced by the urban renewal demolitions of the 1950s. In 1965, the city of New York evicted 1,300 families on the Lower East Side for an urban-renewal project, promising the evictees that they would have first dibs on housing to be built to replace the demolished units. But in 1988, the city government announced plans to permit the building of luxury apartments on the site instead.

The sham of “blighted” neighborhoods

Local and state governments routinely abuse their power to label land as “blighted” in order to avoid paying people a fair value for land they intend to seize. *The Los Angeles Times* reported in 1991,

“In the tiny but wealthy desert city of Indian Wells, the council sought to resolve a budget crisis by declaring almost the entire city blighted. It planned to use redevelopment funds to build a championship golf course and other incentives to attract luxury resort hotels.”

The city government of Marion, Illinois, announced that the entire city — including farmland inside the city limits — was blighted. The city council of Mission Viejo, California, sought to declare the entire city “blighted by traffic” — and thus to vastly increase their own power over the city’s residents. Columnist Dan Walters noted, “Vallejo, California, used redevelopment powers to declare a golf course to be blighted so it could be folded into the MarineWorld Africa USA tourist development.”

The city of Wheaton, Illinois, enacted an ordinance that allowed the city government to declare as blighted (and eligible for eminent domain) any parcel of land that had “vacancies in all or part of any building.” Thus, almost any commercial building with vacant space became a candidate for seizure. (An Illinois court overturned the ordinance as excessively vague.)

In Columbus, Ohio, a land-owner’s property was condemned and confiscated because it was being used as a parking lot — and the local Community Urban Redevelopment Corporation declared that the land could be better used as a parking garage.

Politicians now have a blank check to evict almost anyone (in actuality, only the politically unorganized or weak). In 1980, the cities of Detroit and Hamtrac, Michigan, evicted 3,400 families from an area known as Poletown, bulldozed their homes, and gave the razed area to General Motors to build a Cadillac plant. One hundred and fifty businesses, 16 churches, and 1 hospital were driven off their land by the cities’ action. Most of the evicted businesses received only minimal compensation for their losses.

The Michigan Supreme Court upheld the action because the city governments claimed that the destruction of private homes was necessary in order to save jobs. (General Motors had threatened to move its Cadillac plant to some other state if Detroit did not clear space for it.)

But a 1989 General Accounting Office investigation found that the new factory hired only 59 workers from the Poletown area. In 1986, Detroit again sought to bulldoze its way to economic salvation, condemning another thousand homes and businesses in order to pave the way for a new Chrysler plant.

Despite these valiant efforts, Detroit continued in an economic free fall. In 1993, its official city ombudsman, Marie Farrell-Donaldson, publicly suggested that the government move residents out of dying neighborhoods and turn the land into an urban pasture. Martin Anderson, concluded from his discussions on urban renewal with dozens of politicians and community leaders,

“They were not seriously concerned with the poor people living in the areas they had tentatively marked for renewal; they were not concerned with any personal gain; they were not even very concerned with getting a substantial amount of cash from the rest of the taxpayers via Washington. But they were concerned with power.”

In a 1991 case, the U.S. Court of Appeals ruled that a Sterling Heights, Michigan, city councilman was guilty of “autocratic exercise of elective office for the achievement of a personal objective” after he engineered the city government’s denial of a company’s development plan that had previously been approved by the city.

Takings and politics

Even some baseball team owners have exploited the power of eminent domain in order to enrich themselves at the expense of politically weak landowners. *New York Times* columnist Nicholas Kristof recently lacerated President George W. Bush for his role in “grabbing land for a new baseball stadium in Arlington, Texas, for his Texas Rangers baseball team.” The story of how Bush and his co-owners seized the land for the new stadium is “a sordid tale of cronyism, of misuse of power, of cozy backroom money-grubbing — a more pressing threat to American business than outright criminality.” The team owners had a sweetheart deal with the local government; as Kristof noted,

“As part of the deal, the city would even confiscate land from private owners so that the Rangers owners could engage in real estate speculation.”

The plundered profits from the land grab helped finance Bush’s first political campaign — and thus helped propel him into the presidency.

Today — in some states and locales — election onto a city council confers the legal right and the power to attempt to destroy any part of the city that the council member personally dislikes. Every decrease in the sanctity of private property will mean an increase in insecurity for some citizens.

To allow the government practically unlimited control and jurisdiction over private property is to give politicians and bureaucrats almost unlimited power to intervene in private lives. We face a choice of private property or political subjugation. Citizens can either be treated like owners — or they can be treated like serfs.

*James Bovard is the author of **Feeling Your Pain: The Explosion and Abuse of Government Power in the Clinton-Gore Years** (St. Martin's Press, August 2000).*