

# Tampa Heights project puts eminent domain opinions in forefront

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TAMPA -- A dozen properties in Tampa Heights -- mostly vacant lots -- will become city property despite failed negotiations with owners, thanks to the government's eminent domain power.

But as parcels are gathered for the proposed \$500 million Heights of Tampa redevelopment project, various groups and lawmakers are finding ways to make the government land-grab tool harder to use.

Eminent domain shouldn't be used unless all other options have been exhausted, said Kerry Gaylord, a partner specializing in eminent domain with Gaylord Merlin Ludovici Diaz & Bain in Tampa. While his law firm doesn't have a specific interest in the Tampa Heights project, Gaylord said it demonstrates a continuing problem taking place statewide.

## Could benefit private developers

"This is a naked attempt to turn land from one owner to another owner," Gaylord said. "There is no threat to the safety and welfare of the community. If it were filled with crack houses, they would be torn down. They wouldn't need to use eminent domain to protect anybody from anything."

Rhea Law, who represents the partnership of Bank of America, local businessman Don Wallace and developers Bill Bishop and Glenn Cross, said that the developers worked hard to acquire nearly 170 parcels between Ross Avenue and the Hillsborough River near downtown and the Tampa campus of [Stetson University](#) College of Law. These last parcels are needed to complete the project.

"Some of them are very crucial," Law said. "They are in the middle of infrastructure and areas that need to be completely redeveloped for water and sewer and storm water, so it was important to acquire them for those purposes."

Tampa Mayor Pam Iorio, who has been championing the project that would bring a mixture of condominiums, affordable housing, restaurants and stores to the neighborhood, said the city doesn't take eminent domain lightly, and it needs to be done.

"The city takes a very conservative approach to eminent domain," Iorio said. "There are no homesteaded properties, and most of the properties are vacant land. The Heights project, when it ultimately gets approved, would provide an overall benefit to the community in terms of redevelopment. Eminent domain is a tool that can be used by cities for redevelopment of blighted areas."

Is eminent domain being abused?

The fact that most of the land is vacant is what makes using eminent domain questionable, Gaylord said.

Vacant land cannot provide a blight or a safety hazard, the usual ingredients needed for eminent domain along with a public purpose. The city, using its [Community Redevelopment Agency](#), declared the broad neighborhood a blight without paying attention to specific properties, Gaylord said.

But a new law working its way to the Florida Legislature's floor could force governments to take a closer look at their blight designations, including considering property on a parcel-by-parcel basis instead of just the overall neighborhood.

"The ability of a CRA, which is what we're talking about here, to take property for economic development purposes, will likely be narrowed if not eliminated," said Rep. Anthony Trey Traviesa, R-Tampa, who sits on the [Legislature's Select Committee](#) to Protect Private Property Rights. "They can define slum and blight, but when it comes to taking someone's property, it will have to be done on a parcel level. Second, the test for takings is likely to emerge in the form of strictly health and safety concern, rather than a long list of factors that currently define blight, which pretty much fits any piece of property from the largest house on Bayshore Boulevard to a house known for criminal activity and is dilapidated."

Iorio cautioned that legislators should make sure they fully understand the role of CRAs in eminent domain before tying their hands. Traviesa, however, said he was a supporter of the Tampa Heights project, and it's unlikely that any bill -- which could be passed before the current session ends in May -- will affect the project.