



Eminent Domain

Overview:

The 'Takings Clause' is one of the fundamental issues with regard to American property rights today. In essence, the Takings Clause says the government cannot take someone's private property unless it is for public use and provided the government pays just compensation to the owner. This historically is called "eminent domain" although that phrase occurs in English common law, it does not occur in the Constitution. The 5th Amendment states:

" . . . nor shall private property be taken for public use, without just compensation."

Eminent Domain is a power that the government has to take a person's land, home, or business. The founding fathers, knowing the potential for abuse of this power, stated in the US Constitution that private property shall not be "taken for public use without just compensation". The Takings Clause sets two limits: The use must be public and the compensation must be just.

Historically this power was used for roads and public buildings and the courts limited the taking of property for only public use. However, in 1954, the United States Supreme Court extended that interpretation from public use to "public purpose". In 1981, the Michigan Supreme Court further extended the power to include economic development, which resulted in over 10,000 filed or threatened recorded condemnations.

In 2004 Michigan Supreme Court overturned the 1981 ruling, but in 2005, the United States Supreme Court broadened 'public purpose' to include 'economic development'. Since 2005 forty-two states have tightened their Eminent Domain laws.

In 2007 Castle Coalition ranked the fifty states from A to F regarding eminent domain laws. Wisconsin was given the rank of C+. The lower rank reflects Wisconsin law that only limits deceptive 'blight' designations for residential properties only.

To improve Wisconsin eminent domain law, Wisconsin can emulate those laws of states that rank higher on the Castle Coalition ranking. The best eminent domain laws are in Florida, Michigan, North Dakota and South Dakota.

Wisconsin can improve its eminent domain law by replacing subjective terms with objective factors that can be conclusively demonstrated and by extending the same protections it has for residential property owners to all state's citizens and businesses.



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Progressive View:

- Use of eminent domain can be applied to restructure mortgages on foreclosures resulting from housing bubble. (<https://www.commondreams.org/view/2012/07/21-1>)
- The term “blight” is arbitrary
- The term “just compensation” (5th Amendment) is arbitrary
- Eminent domain can be implemented based solely on “under-utilization”
- Progressives favor whatever benefits the “collective” v. the individual

Conservative View:

- Conservatives favor the individual v. the “collective”
- Private property rights must not be infringed upon
- Eminent domain redistributes wealth to corporations and development companies
- The question of what constitutes a "taking" for purposes of the Fifth Amendment has proven to be a problem of considerable difficulty
- Under the rubric of "eminent domain" and various zoning regulations, land use regulations by the Bureau of Land Management, property taxes, and "environmental" excuses, private property rights have become very diluted

Pro Eminent Domain Reforms:

- “Blighted areas” or “blighted property” is specifically defined rather than arbitrarily defined
- Public Use v. Public purpose/benefit is clarified
- Preserves private property rights
- TIF district definition remains intact

Against Eminent Domain Reforms:

- Arbitrarily driven by local politics rather than standards and objective criteria
- Gives large and well-connected property developers an advantage over existing homeowners and businesses
- Enables private developers to circumvent the conventional real estate market and reap substantial financial gains at the expense of private property owners
- Promotes redistribution of wealth
- Enables private developers to join with Government Officials as a quid pro quo at the expense of the property owner



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Existing Law:

- 5th Amendment/Bill of Rights, Takings Clause
- Wisconsin's General Municipality Law ([Wis. Stat. 66.1333\(2m\)\(b\)3](#)), which in part, defines a blighted area as one which "substantially impairs or arrests the sound growth of the community.
- Wisconsin Constitution Article IX, Section 3; Article I, Section 13, Article XI, Section 2
- Wisconsin Statutes Chapter 32 & 61
- Kline Law: Special condemnation procedure for the City of Milwaukee

Pending Legislation:

- SB 83 (WI) Proposed stricter definitions on "blighted areas"/blighted properties regarding condemnation.
Failed to pass: Adversely disposed of pursuant to Senate Joint Resolution (3/23/12)
- Texas SB 18 provided that private property may be seized under eminent domain only if needed for actual public use, clearly bans seizure for private use and requires the government to make a bona fide offer to the landowners. (Passed: 2/9/11) Reference: <http://www.legis.state.tx.us/BillLookup/History.aspx?LegSess=82R&Bill=SB18>
- Nevada SB 86, repealed a 130-year-old provision giving mining companies the right of eminent domain, thereby equalizing the rights of a private industry and landowners. (Passed & Effective: 4/29/11) Reference: <http://www.leg.state.nv.us/Session/76th2011/reports/history.cfm?ID=205>

Actions:

- **Lamar Outdoor Advertising v. Country Side Restaurant (5/4/12)**
The issues involved the compensation to which sign owners are entitled when their permitted signs are taken for highway improvement or other public projects.
- **E-L Enterprises, Inc. v. Milwaukee Metropolitan Sewerage District (7/2/10)**
While constructing a sewer, MMSD unreasonably removed groundwater from E-L's property, which caused the building to settle, amounting to a "taking" of E-L's property without just compensation.

(WI Supreme Court ruled in favor of plaintiff by reversing Court of Appeals decision)

Reference: <http://www.wicourts.gov/sc/opinions/08/pdf/08-0921.pdf>



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- **Kaur v. New York State Urban Development Corporation (12/3/09)** Involved expansion of Columbia Univ.
- **Kelo V. New London, Connecticut (2005)** engages a fine-line distinction between private property interests and the public good. In the Kelo decision, the city of New London argued that the tax revenue generated by Pfizer would help turn the city around and thus justified taking Susette Kelo's property for public use. The Supreme Court agreed with the city, and that touched off a vigorous debate over private property rights in America.
- **Southwestern Illinois Development Authority v. National City Environmental (4/4/02)** The Illinois Supreme Court ruled that "taking one owner's private property and giving it to another for private use is an unconstitutional use of the power of eminent domain."
- **In Dolan V. City of Tigard (1994)** The U.S. Supreme Court decided that the city of Tigard, Oregon could not regulate Ms. Dolan's private property beyond that which was necessary to ensure compliance with flood plain regulations. The court rejected the city's argument that it had a right to require Ms. Dolan to allow unfettered access to her greenway in order to comply with the city's bicycle plan.
- **Poletown Neighborhood Council v. City of Detroit (1981)** The Michigan Supreme Court ruled that a community could be condemned to allow General Motors to build a factory (Overturned by Michigan Supreme Court 7/31/04)

ATTEMPTED PROPERTY SEIZURES: *(See Attached Addendum For Details)

1. Feds Fail At Stealing Private Property In Civil Forfeiture Case
<http://politicaloutcast.com/2013/01/feds-fail-at-stealing-private-property-in-civil-forfeiture-case/>
2. City of Oconomowoc to proceed with eminent domain of parcel for community center parking
<http://www.livinglakecountry.com/lakecountryreporter/187058721.html>
3. Wisconsin Eminent Domain Reform (Re: Earl Giefer/Oak Creek, WI & Bill Maynard/Greenfield, WI) <http://www.ij.org/wisconsin-eminant-domain-reform>
4. Van Taylor was elected to the State House as an economic conservative with Tea Party backing. So why won't he talk about Texas' most famous case of eminent-domain abuse?
<http://www.texasobserver.org/speak-no-evil/>



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5. Wisconsin Economic Development Corporation: WEDC awards environmental assessment grant to Lake Mills

(The press release, cited in the link below, touts the WEDC (unaccountable for \$19 million) as a champion of “economic development”. Ironically, “economic development” organizations have historically morphed into vehicles which promote and engage in eminent domain “takings”...things that make you go, hmmm)

<http://www.wispolitics.com/index.ihtml?Article=287173>

6. Maspeth, NY man sues state after not receiving eminent domain

funds<http://queenscourier.com/2012/maspeth-man-sues-state-after-not-receiving-eminent-domain-funds/>

Constitutionality:

“Eminent Domain” was recognized in British Common Law by our Founding Fathers but was never added to the U.S. Constitution.

The 5th Amendment to the U.S. Constitution states: “...nor be deprived of life, liberty or property without due process of law; nor shall private property be taken for public use without just compensation”.

The terms “public use” and “just compensation” have been blatantly distorted and abused via eminent domain. When abuses occur, it infringes on private property rights, which our Founding Fathers held sacred.

Relationship to the Founding Principles of the Republic:

Free Markets:

Invoking eminent domain is not necessary when the government bargains in good faith and agrees to pay “fair market value” to the property owner (i.e just compensation).

Constitutionally Limited Government:

Substituting “public purpose” for “public use” has infringed on the property rights guaranteed to all Americans under the 4th Amendment.

Fiscal Responsibility:

Taxpayers bear the brunt of eminent domain projects due to legal acquisitions costs. Reports of non-payment (just compensation) to the property owners by the state are disturbing to citizens/taxpayers. (See Addendum #6)



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Additional Reading:

- WI Statutes for Eminent Domain:
http://www.lwm-info.org/index.asp?SEC=EC045466-9253-4B6B-A11B-F8820BD84CD1&DE=58A15482-5D21-43E8-A264-DE31935B8376&Type=B_BASIC
- Life After Kelo v. City of New London (June 23, 2010)
<http://www.propertyrightsalliance.org/life-keho-v-city-new-london-a2921>
- Taxpayers may bear burden of eminent domain scheme (7/19/12)
<http://dailycaller.com/2012/07/19/taxpayers-may-bear-burden-of-eminent-domain-scheme/>
- Eminent Domain and Property Rights
<http://legis.wisconsin.gov/lrb/pubs/ttp/ttp-01-2006.html>

Position of WiGOL:

Wisconsin Statutes need to be re-written to clarify and better define 'blight' in order to limit and prevent Wisconsin Governmental power from aiding a private entity in the pursuit of profit by the use or threat of eminent domain and to limit and prevent local municipalities from using eminent domain in pursuit of creating development projects

ADDENDUM

(Includes full-length articles/details in seizure attempt cases)

1. Feds Fail At Stealing Private Property In Civil Forfeiture Case

Date of Article: 1/28/13

<http://politicaloutcast.com/2013/01/feds-fail-at-stealing-private-property-in-civil-forfeiture-case/>

Motel Caswell in Massachusetts is a family owned business, and has been in business since the 50's. Russ and Patricia Caswell's \$1 million motel property [came under fire](#) a couple months ago when the federal government decided they wanted to seize it under civil forfeiture laws.

The Caswells were an easy target for easy money because they are a small "Mom & Pop" business without the funds necessary to fight a civil forfeiture case against the feds. Also, their property has no mortgage, is completely owned by the Caswells, and if seized by the feds, all the proceeds would go to them and the local police department, a practice they call "equitable sharing."

Since 1985 when the Department of Justice's Asset Forfeiture Fund was created, they've accumulated \$1.6 billion by seizing people's private property. But they always want more. They



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came after the Caswells not because they were guilty of anything, but because for the past 20 years, a handful of people had been arrested there at the Motel Caswell on drug charges.

So, since crimes had been committed on that property, they thought they could just take it. At least that was their excuse. Ordinarily, I'm sure they would have succeeded, but the Institute for Justice came to the Caswell's aid and fought for them.

The case has now been [dismissed](#) as of Thursday:

"In one of the most contentious civil forfeiture fights in the nation, Magistrate Judge Judith G. Dein of the U.S. District Court for the District of Massachusetts concluded, based on a week-long bench trial in November 2012, that the motel was not subject to forfeiture under federal law and that its owners were wholly innocent of any wrongdoing."

The Caswells are both up in years and were hoping to retire soon, and had the Institute for Justice not helped them, they would have lost nearly everything.

According to the Institute for Justice, civil forfeiture cases are getting worse. Equitable sharing payments [doubled](#) from 2000 to 2008:

"Between 2000 and 2008, equitable sharing payments from the U.S. Department of Justice to state and local law enforcement doubled from about \$200 million to \$400 million. And data from two states, Massachusetts and California, indicate that these figures underestimate the true extent of equitable sharing nationwide."

There don't seem to be any real private property rights anymore. The feds don't tax, borrow or create enough money for themselves anymore, so they have to come up with other ways of stealing from law-abiding citizens. Civil forfeiture laws create the perfect avenue for governments to strip people of their private property rights. In the Caswell's case, thankfully the feds lost.

2. City of Oconomowoc to proceed with eminent domain of parcel for community center parking

<http://www.livinglakecountry.com/lakecountryreporter/187058721.html>

Date Of Article: 1/15/13

City of Oconomowoc - In a 4-3 vote Tuesday night, Common Council approved a resolution to proceed with establishing eminent domain of 219. W. Wisconsin Ave. Officials were presented with the option after Mayor Jim Daley said two years of negotiations with the property owner have been unsuccessful.



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The owners of the property according to Waukesha County tax records are Ken Herro and John Haas. The resolution for condemnation of the property comes after the city failed to reach an agreement for binding arbitration regarding the parcel by 5 p.m. Tuesday, a deadline that had been extended from the same time the previous day.

The city is seeking the property directly across from the new community center for parking. The issue has been a hot-button topic in the city because the nearest public parking is about a football field away.

According to a timeline presented at the meeting by Director of Economic Development Bob Duffy, since 2010, the city has gone back and forth with the property owners over the value of the land. The city has assessed the land twice with the latest offer for \$250,000 based on the assessment.

The property owners have argued that the land's value is upwards of \$400,000. They have argued this based on claims that the property could be rezoned from its current residential to mixed-used commercial increasing the value by almost double.

In other parts of the two-year negotiation, the property owners have requested more than \$400,000 for the parcel with around \$100,000 of it being an "IRS gift" for the property.

They have also suggested the city pay more than \$400,000 for the parcel and that they would establish a bed and breakfast elsewhere in the downtown Oconomowoc area adding value to the area and necessitating the increased price beyond the assessed value of the land.

After much discussion, Common Council passed the resolution to proceed with eminent domain. Alderman James Larsen, Cathleen Slattery and Mike Miller voted against the resolution. Slattery and Miller cited reasons of violating a property owner's rights. Slattery said she had concerns based on the unsuccessful outcome of the negotiations that the condemnation would proceed all the way to a jury trial which could mean the city is responsible for all of the losing parties' legal fees which could be about \$100,000 each according to John Van Lieshout of Reinhart Attorneys at Law who has been hired to represent the city. The law states that if the jury award is 15 percent more than the asking price the winning party is responsible for all legal fees plus the price of the property.

"There are easy calls to make and there are tough ones and property rights are right up there with the toughest ones," said Daley in conclusion. "Over the last two years of looking for an alternative and not finding one," this is how the city must proceed, he continued.

Watch for more on this story in Thursday's Oconomowoc Focus.



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3. Wisconsin Eminent Domain Reform

<http://www.ij.org/wisconsin-eminant-domain-reform>

Narrowing “Blight” To Protect Property Rights

The government should not have the power to take your home, farm or small business to give it to a developer.

In 2005, the Supreme Court decided in *Kelo v. City of New London* that private property could be seized for economic redevelopment. Many states, including Wisconsin, reacted with outrage to the *Kelo* decision, passing laws to limit the government’s power to take private property under eminent domain. In 2006, the Wisconsin legislature enacted Assembly Bill 657, which prevented the transfer of non-blighted land to private developers.

But in spite of the clear intention of the Wisconsin legislature, many cities have been evading the post-*Kelo* reforms by declaring land they want to transfer to be “blighted” and therefore exempt from the new limits on eminent domain use. **In 2009, the city of Greenfield tried to seize Bill Maynard’s auto repair shop as part of the multi-million-dollar “Greenfield Commons” project.** Even though there was no evidence that Maynard’s shop was unsafe in any way, Greenfield tried to declare it “blighted” so that, in the words of the mayor, they could “add valuable tax base to the city.”

The city of Oak Creek tried the same trick in 2010 when it tried to grab the farm of 94-year-old Earl Giefer. Giefer’s farm had been in his family since the Civil War. But Oak Creek was afraid that its mere presence might discourage the growth of a nearby business park, so they declared it “blighted.”

Public protest stopped Greenfield and Oak Creek temporarily, but the danger remains as long as Wisconsin law allows cities to declare property to be “blighted” as a pretext for evading the legal limits on eminent domain use. Working with IJ coalition members like Earl Giefer, Bill Maynard, and the Castle Coalition, a bipartisan group of Wisconsin legislators has proposed Senate Bill 83 to close the blight loophole and secure the property rights of Wisconsin home and business owners. Passage of SB 83 is an essential step in the fight against eminent domain abuse.



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4. Speak No Evil

Van Taylor was elected to the State House as an economic conservative with Tea Party backing. So why won't he talk about Texas' most famous case of eminent-domain abuse?

<http://www.texasobserver.org/speak-no-evil/>

Date of Article: 1/27/11

THE GOVERNMENT TAKEOVER of private land for economic development projects is a cardinal sin for property-rights conservatives. In one of the nation's most notorious examples, officials in the Gulf Coast town of Freeport tried to seize land so a developer could build a yacht marina. The marina was supposed to transform the small, working-class Texas town's struggling economy. Instead, Freeport's marina became nationally known as a poster child of eminent-domain abuse.

Over the past decade, the battle in Freeport has ripped a town apart and changed the law of the land in Texas. So why would a new conservative member of the Texas House—a man who witnessed and participated in some of this heady history firsthand—not want to talk about it?

In an ideological mismatch, the blueblood family of first-term Rep. Van Taylor, R-Plano, was on the *eminent domain* side of Freeport's marina fight—the side that gives many of Taylor's fellow Texas conservatives hives. However, few in Taylor's Plano-based district seem to know much about the issue, which never surfaced during his campaign.

To understand this tale of greed and conservative hypocrisy, a little history helps. Taylor descends on his mother's side from the 1909 marriage of Humble Oil founder Robert E. Lee Blaffer to a Texaco founder's daughter. Gov. James Hogg dubbed the union "the conglomerate of the century."

Now fast-forward almost a century. In 2002, Taylor and 10 other young descendants of that marriage inherited a seemingly insignificant scrap of Blaffer wealth: nine acres on Freeport's dingy waterfront. That beachhead is where Freeport's imaginative officials envisioned a marina to attract wealthy people, shops and hotels to a city laboring under a petrochemical cloud.

Freeport officials wanted the marina so bad that they made the Blaffer heirs an offer that was hard to refuse. The city would loan the Blaffers \$6 million to build the marina on land valued at \$750,000. On paper, Freeport's generous loan suggested to some that the Blaffers didn't have much to lose. But they were putting their reputations at stake.

The marina project's chief failing was that it did not limit itself to land already owned by either the Blaffers or local government. When negotiations with several adjacent landowners broke



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down in 2003, the city-controlled Freeport Economic Development Corp. invoked eminent domain to buy the disputed properties. The Blaffers soldiered on with the project despite its assault on property rights.

The marina debate in Freeport unfolded as a national debate over seizing private land for economic development was coming to a head. In 2005, a 5-4 U.S. Supreme Court majority ruled that a Connecticut town could use eminent domain to seize waterfront homes for a private developer. The majority and dissenting opinions in *Kelo v. City of New London* could have been written just as well about the Freeport marina. “Any property may now be taken for the benefit of another private party, but the fallout from this decision will not be random,” wrote dissenting Justice Sandra Day O’Connor. “The beneficiaries are likely to be those citizens with disproportionate influence and power in the political process, including large corporations and development firms.”

REP. TAYLOR WAS NOT the Blaffer family’s front man on the marina. That role fell to his cousin, Dallas developer Hiram Walker Royall. On behalf of the Blaffer heirs, Royall agreed in 2002 to develop the Freeport marina.

When Freeport officials invoked eminent domain at the marina in 2003, Taylor was 7,000 miles away, doing a reserve tour with Marines who spearheaded the invasion of Iraq. The military later decorated Capt. Taylor for valor in the fight for the city of An Nasiriyah and the rescue of Army Private Jessica Lynch.

His military service did not keep Taylor away from the marina debacle forever. In May 2005, the future legislator accompanied Walker Royall to Freeport for a public meeting about the project. Taylor left the speaking to Royall that day, but he witnessed verbal combat. One citizen asked the developers how they squared the project’s use of eminent domain with the Tenth Commandment’s prohibition against coveting your neighbor’s property. Another wanted to know why taxpayers had to finance the project. It was a good question, given that the Blaffers are stockholders in the local Texas Gulf Bank (Taylor sits on the board).

“Unfortunately, the market here, the way it is right now, is not a proven market,” Royall responded. “The banks would not be willing to lend us the money under terms that we could accept for the project, meaning that the interest rate would go up, the amount of risk would go up.” No commercial bank, in other words—not even the Texas Gulf Bank—would match the terms the city of Freeport had offered the developers.

A month after that contentious meeting, the Supreme Court released its explosive *Kelo* decision. The ruling was denounced by property-rights advocates such as Republican Congressman Ron Paul, who represents Freeport in Washington, as a prime example of how “we find ourselves increasingly enslaved by petty bureaucrats at every level of government.” Two months later, Taylor formed a fundraising committee for his first political campaign. Preparing his ultimately unsuccessful challenge to Waco Democratic Congressman Chet Edwards, the young Harvard



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graduate apparently recognized that a personal stake in the Freeport marina could tarnish his conservative credentials.

Brittany Eck, Taylor's chief of staff, says her boss sold his interest in the Freeport property sometime after he returned from Iraq in 2005 and "doesn't want to comment about something he wasn't involved in." Eck declined a request to ask Taylor about his sale of the property and his impressions of the meeting he attended in Freeport.

Royall did speak to the *Observer* and said that he bought out Taylor's interest in the Freeport property. Royall said the transaction "could've been around that time" when Taylor attended the Freeport meeting. Whatever the timing, Taylor did not list the Freeport property among his assets on a congressional campaign disclosure filed months later. According to the report, Taylor's stock in Exxon Mobil Corp.—successor to his great-grandfather's Humble Oil—was worth between \$5 million and \$25 million.

TAYLOR LEVERAGED HIS FAMILY FORTUNE to win a Texas House seat last spring. In one of the priciest House primaries in Texas history, Taylor spent almost \$1 million of his own money to become the Republican nominee for the seat of the retiring Plano Rep. Brian McCall—and a shoo-in to win the general election. McCall, a moderate Republican, had tapped GOP candidate Mabrie Jackson as his preferred successor. But Taylor, backed by Texans for Fiscal Responsibility and the North Texas Tea Party, won the three-way GOP primary in a runoff. In its endorsement, the Tea Party group called him "the prototypical fast-rising star of the Conservative wing of the GOP ranks."

Jackson, Taylor's vanquished opponent, says she was unaware of Taylor's ties to the Freeport marina. Would this issue have changed the outcome? Jackson says that would have depended "on how much he really had to do with it and when he sold."

Plano real estate broker Olin Jaye supervised the Texas Association of Realtors members who quizzed District 66 candidates about eminent domain. The trade group, which endorsed Jackson, keeps the details confidential. But Jaye recalls that "they were all very conservative, well-informed candidates on our issues and very supportive of Realtors and property rights."

While Taylor declined to discuss his views for this article, cousin Royall told the *Observer*, "I'm not a supporter of eminent domain." The marina embarrassed the conservative Blaffer heirs, it seems, because its land grab conflicted with their core beliefs.

It also conflicted with the convictions of conservative groups that backed Taylor and routinely denounce the use of eminent domain for development projects. Eleven conservative groups, including Texans for Fiscal Responsibility and the Texas Conservative Coalition, joined *Kelo* plaintiff Susette Kelo and Freeport's Western Seafood in a 2009 letter to Texas lawmakers urging legislators to strengthen a proposed state constitutional amendment to stop "eminent domain abuse."



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The Conservative Coalition—which counts Taylor among its members—has called eminent domain “government power at its rawest” and denounced *Kelo* as a “slide toward socialism.” These tracts never mentioned the elephant in the room: Freeport’s marina. (A post-*Kelo* paper by the conservative Texas Public Policy Foundation skewered the project. “It is inconceivable that the Founding Fathers would have thought that the Fifth Amendment would have allowed the City of Freeport to take the property of Western Seafood,” it said, “and give it to their neighbor to build a private marina.”)

The Conservative Coalition may have glossed over the Freeport marina out of deference to the Blaffer clan. Coalition Executive Director John Colyandro now awaits trial on criminal charges alleging that he helped Tom DeLay’s Texans for a Republican Majority PAC launder corporate funds during the 2002 Texas elections. Those elections famously elevated Midland Republican Rep. Tom Craddick—a founder of the coalition’s research arm—to the speaker’s dais. For 12 years, Craddick has sat on the board of a Midland energy company headed by Rep. Taylor’s father, Nicholas. Craddick reciprocated as speaker in 2005, appointing Nicholas Taylor to the Texas Ethics Commission.

At the time of Nicholas Taylor’s appointment, the commission was investigating a complaint that Freeport’s mayor had filed against Western Seafood. It alleged, among other things, that the shrimp company illegally spent \$1,000 in corporate funds to back an anti-marina candidate for the city council. Commissioner Taylor brought awkward baggage to the case. He had served as executor of the estate that left the waterfront property in Freeport to the young Blaffers—including his children.

Nicholas Taylor tells the *Observer* that he knew—and respected—Western Seafood’s patriarch, Wright Gore Sr., when they both served on the board of Texas Gulf Bank. Despite these ties, the ex-commissioner says he can’t remember if he participated in the agency’s decision to fine Western Seafood \$2,000. “I think I recused myself,” he says, “but I can’t recall.”

WESTERN SEAFOOD, which led the fight against the marina, is a shrimp wholesale business that has been owned for three generations by the family of Wright Gore III. When Freeport officials and the Blaffers sought to build part of the marina on a slip of Western Seafood’s waterfront, Gore’s family, which employs 56 people and supports 200 shrimp contractors in the Gulf, sunk \$700,000 into the battle. Gore poured some of his energy into such websites as “6million4Walker.com,” which panned the marina as a raw deal for Freeport taxpayers.

Gore is a character, a fellow with “a flair for Texan slang,” according to reporter Carla Main’s 2007 book about Freeport’s marina, *Bulldozed: ‘Kelo,’ Eminent Domain and the American Lust for Land*. Gore “summed up the marina development for Freeport residents as he saw it,” Main wrote, “warning that they would ‘get the boot’ and ‘the bill.’”



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Gore's spin got to Van Taylor's cousin, Walker Royall. The Dallas developer told Gore's lawyers in 2008 that their client unfairly portrayed him as "a property-taking, tax-dollar stealing robber baron.

"When I got involved in the project, there was no talk of eminent domain," Royall said, and all affected property owners indicated that they were on board. Royall told Gore's lawyers in 2008 that the shrimp family brought eminent domain upon itself by demanding a king's ransom for their land. "They have a property that was on the tax rolls for \$60,000, that they were interested in, in my opinion, extorting \$1.4 million from the City of Freeport for," Royall told the lawyers.

Royall has filed defamation lawsuits against many critics. Western Seafood's insurers paid \$300,000 in 2009 to settle one suit. Royall also filed a 2008 defamation suit against author Main, her publisher, a professor who wrote a blurb promoting her book and a writer who reviewed the book in the *Galveston County Daily News*. Complaining that Main's book has prompted repeated questions from friends and business associates, Royall's lawsuit says his "reputation has been damaged," causing "mental anguish." Main dismisses Royall's suit as "an affront to the First Amendment." A state appeals court in Dallas is expected to rule soon on Main's request to dismiss the case on free-speech grounds.

Like the marina project's land grab, Royall's litigation has drawn conservative condemnation. "So slapdash are Royall's accusations against Main," wrote national columnist George Will, "that his suit seems to reflect nothing more substantial than his dislike of her opinions."

Closer to home, Catherine "Trinka" Blaffer-Taylor gave \$25,000 during the marina battle to Texans for Lawsuit Reform to combat lawsuit abuse. This opponent of lawsuit abuse is Royall's aunt and the mother of Rep. Van Taylor—who lists "abusive litigation" as a chief concern on his legislative website.

AFTER ALL THE FUSS, Freeport officials failed to acquire any land for the marina through eminent domain. Brazoria County courts halted the condemnation proceedings on the Gore family's Western Seafood land in May 2007, finding that Freeport's condemnation rights had not been vested before Texas enacted a post-*Kelo* law in 2005.

That Texas law, passed in the wake of the Supreme Court decision, prohibits land condemnations that chiefly promote economic development or benefit a private party. Texas voters subsequently adopted a 2009 constitutional amendment that largely prohibits land takings for private-sector economic development projects. It's not clear that these changes would have occurred if a shrimp family hadn't drawn a line in the sand in Freeport.

"The Wright Gore family's struggle put a human face on eminent-domain abuse in Texas," says Matt Miller of the Austin office of the libertarian Institute for Justice. "His indefatigable efforts meant that lawmakers could not ignore the issue." Miller's group is defending author Main against Walker Royall's lawsuit.



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Van Taylor's cousin never built a marina in Freeport. Local opposition came to a head in 2006 when the city-run Freeport Economic Development Corp. replaced Royall as developer of the troubled project. The development corporation decided to build the marina itself, and then lease or sell it back to Royall.

Part of the Freeport Municipal Marina opened last fall. It has leased 16 out of 150 boat slips, says manager Angie Degetaire. Estimating that the marina will end up costing \$11.5 million, the development corporation filed suit last April alleging that Walker Royall fraudulently breached his marina contract. Royall made counterclaims of his own. Development Corp. President Jim Barnett, who was mayor in the early days of the marina fiasco, says Royall and the agency are discussing a settlement.

5. Wisconsin Economic Development Corporation: WEDC awards environmental assessment grant to Lake Mills

*The article below illustrates how the WEDC which touts "economic development" and has been unaccountable for \$19M, is smelling more and more like a potential vehicle for eminent domain:

<http://www.wispolitics.com/index.iml?Article=287173>

Date of Press Release: 1/8/13

Contact:

Tom Thieding, 608-210-6767

tom.thieding@wedc.org

Link to Release: inwisconsin.com/sag-lake-mills

MADISON, January 8, 2013 – The City of Lake Mills has been awarded a \$46,750 Site Assessment Grant by the Wisconsin Economic Development Corporation (WEDC) to assist in environmental investigation activities in the downtown area of the city.

The site investigation will take place on a six-acre project site at 621 and 629 East Lake Street, which had manufacturing of food processing and foundry operations conducted at the site for over 100 years. The City of Lake Mills Redevelopment Authority is focusing on testing the property for environmental impacts so the site will be more attractive for redevelopment opportunities. The city will use the Site Assessment Grant to complete the necessary remaining assessment activities needed for site remediation and eventual redevelopment.

The Brownfield Site Assessment Grant Program is state program for WEDC to grant funds to local governments to perform environmental investigations, demolition of structures, removal of abandoned containers and underground tank systems.



Eminent Domain

About Wisconsin Economic Development Corporation Wisconsin Economic Development Corporation (WEDC), formed in 2011 as a public-private entity, leads economic development efforts for the state and nurtures business growth and job creation by advancing Wisconsin's business climate. In addition to Wisconsin's strong legacy industries of agriculture and manufacturing, recent growth has occurred in water technology, renewable energy, bio-sciences, health care, and food processing. In 2012 Wisconsin was ranked No. 20 in Chief Executive Magazine's "Best States for Business" and No. 17 as a top state for business by CNBC. WEDC partners with 650 economic development organizations throughout Wisconsin to serve businesses looking to start, grow or relocate. WEDC has four focus areas: business and industry development, economic and community development, entrepreneurship and innovation, and international business development. Visit inwisconsin.com or follow WEDC on Twitter @_InWisconsin to learn more.

6. Maspeth man sues state after not receiving eminent domain funds

<http://queenscourier.com/2012/maspeth-man-sues-state-after-not-receiving-eminent-domain-funds/>

Date of Article: 3/15/12

A Maspeth businessman who claims he still has not received payment from the state — nearly a year after his land was seized through Eminent Domain — is suing.

Sass Sheena's property along 43rd Avenue in Maspeth was appropriated by the state as part of the redevelopment of the Kosciuszko Bridge. While the land was taken in June, Sheena, 49, says that he is yet to receive the money for his property.

"They have my building and now I'm having a hard time getting paid," he said. "For me it's a hardship."

The money, more than \$2.8 million, has been placed in a comptroller's account. Sheena filed a suit in January.

According to Sheena's lawyer, Michael Rikon, the state can place the funds in a comptroller's account only if there is a conflict.

"A conflict exists when two or more parties claim the money in a title dispute. That's not the case here," Rikon said. "There is no question who the owner is."

A Department of Transportation (DOT) spokesperson said that the agency placed the funds in the account based on a the attorney general office's decision.



Eminent Domain

Since the building was appropriated nine months ago, Sheena has had no source of income. His income previously came from rent from the tenants on his Maspeth property.

“Obviously you want the money from your property so you can reinvest or go into another business,” said Sheena, who is married with four children. “It’s unjust what they’re doing.”

Rikon said the state deposited the money into the account without notifying his client. A separate lawsuit must be filed to determine if there are any other claims on the money.

This is going on throughout the state, said Rikon, whose firm has been handling Eminent Domain cases for nearly 90 years.

“It is incredible how they’ve gotten away with what they been doing, it’s extortion,” he said.

Letters had been sent to Governor Andrew Cuomo while he was attorney general and to Senator Chuck Schumer, but nothing has been done as of yet, Rikon claims.

Work is scheduled to begin on the Kosciuszko Bridge in the summer of 2014.