THE FREEMAN
IDEAS ON LIBERTY

Published by
The Foundation for Economic Education
Irvington-on-Hudson, NY 10533
Phone: (914) 591-7230; E-mail: freeman@fee.org
www.fee.org

The Foundation for Economic Education (FEE) is a non-political, non-profit educational champion of individual liberty, private property, the free market, and constitutionally limited government.

The Freeman is published monthly, except for combined January-February and July-August issues. To receive a sample copy, or to have *The Freeman* come regularly to your door, call 800-960-4333, or e-mail bhoffman@fee.org.

The Freeman is available on microfilm from University Microfilm International, 300 North Zeeb Road, Ann Arbor, MI 48106.

Perspective

Extortion in Port Chester

The least appreciated form of tyranny in the United States goes by the names "redevelopment" and "government-business partnership." While everyone knows about the threat of development-oriented eminent domain, thanks to the 2005 Supreme Court decision in *Kelo v. New London*, local tyranny goes much deeper than the "mere" taking of property in order to give it to another private party.

A case out of Port Chester, N.Y., illustrates the danger. In 1999 the Village of Port Chester and the development firm G&S Port Chester agreed to embark on a $100 million 27-acre redevelopment project in which dilapidated buildings would be torn down in favor of stores, a movie complex, and other amenities. Under the agreement the Village government gave G&S sole authority to obtain properties in the project area both through negotiation and eminent domain. Only G&S can build there, and any profits from the project belong to the developer.

This smells bad enough already, but it gets worse because Bart Didden, who owns property that is partly in the project area, wants to build a CVS drugstore. The local Village planning board said okay, but under the redevelopment agreement G&S has veto power. Rather than vetoing the plan, however, G&S made Didden an offer: You can build your store if you fork over $800,000 or make G&S a 50 percent partner.

When Didden balked, G&S threatened to have his property condemned and to build a Walgreens drugstore there instead. Didden called the developer's bluff, and before he could blink, the Village moved to condemn his land. Didden went to federal court to stop the abuse, but the case was dismissed at the district and appellate levels because, the courts said, he filed too late. The Institute for Justice (IJ) tried to get the case before the U.S. Supreme Court, but the Court declined to take it. The *Christian Science Monitor* thought Didden's case could be the "next big test of the power to seize property." But it is not to be.

Before the Court refused the case, IJ lawyer Dana Berliner had said that a victory for the Village "would

mean that every redevelopment area in the country would be a Constitution-free zone. Any taking, no matter how private, would be OK as long as it was in those areas." Afterwards she added, "This abuse will only grow worse until the courts do their job and set some limits on government's power of eminent domain."

Village officials defend G&S, maintaining that in return for developing the area, the developer was assured all the profits from the project. If Didden were allowed to proceed, the agreement would in effect have been changed. "A contract is a contract," says Mark Tulis, attorney for the Village.

There's just one problem: *Didden was not a consenting party to the contract*. The Village made commitments on behalf of Didden and his property without his permission. So G&S's ability to threaten condemnation if Didden refuses to pay up is an outrage, all the more so because it was bestowed by the government.

This sort of thing is all too typical. Local planning entities and politically connected developers have been running roughshod over property rights for years. It has become so common that it's hardly controversial for most people. It's just the way things are done. Most people think economic development couldn't happen without such practices. (See Steven Greenhut's August 2006 *Freeman* article, "Central Planning Comes to Main Street," and George Leef's November 2005 *Freeman* article, "*Kelo v. City of New London*: Do We Need Eminent Domain for Economic Growth?")

There's a word for what's going on in Port Chester, and Didden does not shrink from using it: "My case is about extortion through the abuse of eminent domain; it is about payoffs and government run amok. It took me years of hard work to buy that property, pay off my mortgages and really feel like I own it. How dare the Village of Port Chester and this developer threaten me in this way."

How dare they, indeed?

★ ★ ★

A student wonders if the presence of illegal immigrants mitigates the negative effects of the minimum wage. His professor, Howard Baetjer, responds.

Property rights, which are so critical to the progress of society, are anything but static. They undergo change in response to many factors, including technology. Andrew Morriss explains as he continues his series on property in America.

The "Swedish model" has long been thought of as a blueprint for the welfare state. But if that's what it is, Sweden must have failed to apply it during its years of economic progress. Waldemar Ingdahl sets the record straight.

One of the most consequential of recent laws passed by Congress to regulate the economy is the Sarbanes-Oxley Act of 2002. Enacted in response to the Enron collapse and other corporate scandals, the new law has been praised as the key to good corporate conduct. That's not how it's working out, Barbara Hunter writes.

The Food and Drug Administration has been under fire simultaneously for keeping life-saving drugs off the market and letting pharmaceutical companies market dubious products. Larry van Heerden sifts through the facts and proposes an alternative to top-down regulation.

Reports of "old" Europe's economic recovery are greatly exaggerated. So says Norman Barry.

Our columnists serve up a copious intellectual feast: Richard Ebeling analyzes the proposed federal budget. Lawrence Reed describes a Polish hero. Burton Folsom identifies another killer New Deal program. Thomas Szasz wonders when people will come to their senses about the "drug war." Walter Williams points out that the minimum wage hurts minority teenagers most. And Richard McKenzie, reading assertions that the minimum wage does no harm to unskilled workers' total compensation, objects, "It Just Ain't So!"

This month's book reviewers weigh volumes on big-government conservatism, environmental solutions, foreign aid, and welfare-state liberalism.

—Sheldon Richman
srichman@fee.org