



Oklahoma-like land grab should come later than 'sooner'

By Jim Waters

Surely Northern Kentucky University land-grabbers don't think they can use eminent domain to seize private property for a new athletic complex. Or do they?

You never know what people in power, who seem to disdain the sacredness of private-property rights, are capable of doing.

NKU officials left the door open for eminent domain when announcing plans for the new complex planned for nearby private property – even before regents approved the plan or offered owners payment. And the property, essentially placed in limbo, makes it tough for owners to sell now that potential buyers know the university's plans.

Who wants to buy property with an “up for grabs” sign stuck in the front yard?

The university doesn't have the cash right now to buy the coveted properties. Playing the eminent-domain card forces other potential buyers to fold.

The Cincinnati Enquirer reported that NKU President James Votruba said the university “will try to avoid using eminent domain.”

Votruba might as well have said: “We'll try to avoid condemning property. But we will — one way or another – get this property to build our new baseball diamonds, track field, tennis courts and parking lots. If owners don't accept our (a.k.a. fair-market value) price, we'll condemn their land.”

The university president didn't say that, but a local real estate agent did, and he knows eminent domain when he sees it.

Jim McCord got involved in the outrageous eminent-domain case in which the city of Newport condemned homes in the well-kept Cote Brilliante neighborhood to assist a land grab by developers for a shopping center.

McCord predicts local government “will have to use eminent domain” in the NKU neighborhoods on Faren and Sunset drives just as it did in Cote Brilliante.

“Have to?” For tennis courts? Not hardly.

Still, I believe McCord's right. NKU will try eminent domain if property owners don't want to sell.

Are freedom-loving Kentuckians going to stand by and allow government to take private property owned, maintained and invested in by their fellow residents for a tennis court?

The founding fathers created a Constitution that allowed eminent domain tactics, but sparingly and only as a means to attain land for the public good – to create utilities, highways and railroads.

Shopping centers? I don't think so.

Even with legitimate cases, eminent domain should remain a last resort. Jesus said divorce was "allowed" in certain cases, but he didn't make couples separate. Likewise, even as a last resort, eminent domain isn't the best way.

The university anticipates some owners seeking more than a distorted appraisal determines their property is worth. Others simply don't want to sell.

This led Votruba to promise that NKU "will work to develop a plan that addresses (property owners') interests as well as we can."

President V. should check with one of his profs who teach constitutional law and get a primer on the Fifth Amendment: "No person shall be . . . deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

He'll find that situations such as this aren't just about the "interests" of private-property owners, but rather about their constitutional rights.

Ken Ramey, NKU vice president of administration and finance, promised property owners fair value based on appraisals in similar neighborhoods. But the Constitution says nothing about "just compensation" hinging on "appraisals of similar neighborhoods." Rather, it says "just compensation."

The founders never intended for the government to wrest private property for projects cavalierly identified as necessary for "public use." In those rare instances in which the government must take property, the owner must get full satisfaction.

If these property owners in Northern Kentucky are smart, they'll hire a sharp lawyer. If their elected officials are smart, they'll send President V. this message: Let property owners determine "just compensation." Then let NKU pay up — or shut up — about eminent domain.

Jim Waters is the director of policy and communications for the Bluegrass Institute, Kentucky's free-market think tank. You can reach him at jwaters@bipps.org. You can read previously published columns at www.bipps.org.