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## Judges reserve decision in eminent domain appeal

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*COASTAL MONMOUTH BUREAU*

After three hours of arguments, an appellate panel of judges today reserved decision on a case involving Long Branch property owners who are challenging the city's right to take their homes by eminent domain.

The arguments - before Judges Joseph F. Lisa, Paulette Sapp-Peterson and Richard Newman - examined whether the city acted appropriately when in 1996 it declared the Marine Terrace, Ocean Terrace, Seaview Avenue area in need of redevelopment.

The city plans to acquire the homes by eminent domain and turn them over to the developer of the second phase of Beachfront North, who has proposed about 180 luxury condominiums for the oceanview parcel now comprised of more modest homes and bungalows.

About 11 property owners in the MTOTSA neighborhood are challenging a 2006 decision by Superior Court Judge Lawrence M. Lawson, sitting in Freehold, that found the city's actions complied with state law.

State Public Advocate Ronald K. Chen, who observed the hearing from the audience, said, "After many years of doing this and being a lawyer, you learn you don't predict the court based on oral arguments."

Deputy Public Advocate Brian Weeks, who co-wrote that office's friend-of-the-court brief in support of MTOTSA, was assisting the property owners in their case.

Before the hearing, a rally was held by about 50 MTOTSA residents and their supporters in front of the Richard J. Hughes Justice Complex.

Thomas Anzalone, who will be 91 at the end of the month, compared the city's attempted acquisition of his home to Japanese efforts to gain control over Hawaii during World War II.

"Today we have the very same ominous threat. If the government can be allowed to evict me from my little piece of Hawaii in Long Branch and give it over to high-rise condos, then I assure everyone here today that no home will be safe - not from the Japanese Imperial Army but our state government wanting to take you out of your home and give it to someone else to live in."

The judges asked numerous questions, and Chen thought the degree of questioning indicated that the judges made a substantial effort to familiarize themselves with the details of the case.

No date was set for a decision. Lawyers from both sides predicted anything from six weeks to six months.

Property owners also relied on arguments offered by attorney William J. Ward of Florham Park, and Peter H. Wegener of Lakewood, who both have practices that focus heavily on challenging eminent domain.

They were joined by lawyers Scott G. Bullock and Jeff Rowes of the Virginia-based Institute for Justice, a public interest law firm that argued the 2005 case of Susette Kelo, who was seeking the right to remain in her New London, Conn., home. The U.S. Supreme Court, in a 5-to-4 decision, ruled that government could take private property for economic development projects.

Arguing the city's position were long-time City Attorney James G. Aaron and city attorney Paul V. Fernicola.