

October 26, 2006.

Senate Community and Urban Affairs Committee: Rice Bill S-1975 (Rice)

Re: **Eminent Domain Abuse in Bound Brook**

Dear Senate members,

After the national disaster of the Hurricane Floyd flood in 1999, 200 acres of the southern portion of BB were immediately designated an area in need of redevelopment. Supposedly, this was to benefit flood victims by helping to obtain disaster aid for them. It was even claimed (mendaciously) that future flood control was linked to redevelopment designation.

Once the designation was in place, a vague redevelopment 'plan' with an extendable duration of 30 years was passed. This brought none of the promised aid to the disaster victims. Instead, it had no effect except to further victimize the disaster victims by placing their emergency repair efforts in an utterly uncertain context. Would the properties they had no choice but to repair be condemned? When? According to what conditions?

At just the time disaster victims had to repair their homes and replace their flooded vehicles and buy new furniture and clothes and attend to the medical problems which always follow a natural disaster (as is well known from Katrina), their local government was saying, in effect, we don't want you here. But we won't tell you when you have to leave. More, at just this crucial post-disaster time, the Borough was holding the required public meetings concerning redevelopment. Were victims to attend to disaster repairs and other emergency needs, or attend meetings? Most naturally did the former, but Bound Brook's 'public meetings' at this time accorded, as the state supreme court was to rule, with statute.

Why the great rush following the flood? The Borough claimed that it desperately needed ratables. But today, more than 6 years after Floyd, not only has no new ratable been created in the Redevelopment area, there is still no plan concerning what will happen in the area and when. Meanwhile, areas close to majority neighborhoods, which could have been developed in 1999, and could be developed today, are left fallow.

The residents (that is, the FLOOD VICTIMS) living in the 200 acre Redevelopment Area still have no idea what their future is. How properly fix one's home after a national disaster, when it is unknown if it will be condemned and, if so, when? How enjoy any sort of 'Quality of Life' living

under these conditions? Especially when Bound Brook continues to use the redevelopment designation as an excuse to refuse investment in the area (for, eg, road and sewer repairs) and to direct grant applications away from the area.

In 2004 Bound Brook signed a consent decree with the DOJ concerning its treatment of minorities. Part of the decree concerns the redevelopment plan and its relation to the sizable minority population in the designated area. Despite the obvious problems with notice and public meetings following a disaster, and despite the admitted bias of the redevelopment plan specified in the consent decree, the NJ Supreme Court has ruled that Bound Brook's actions were perfectly legal under NJ law. Surely this means that NJ redevelopment law is gravely flawed.

Redevelopment in Bound Brook has meant nothing else than that FLOOD VICTIMS were re-victimized by the very government that was supposed to help them!

Bound Brook Concerned Citizens Coalition

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Redevelopment Process flawed:

1. The Redevelopment Process was not transparent in Bound Brook and is not required to be transparent. Decisions affecting thousands of people can be, and are, made behind closed doors.
2. The Borough placed one tiny ad in one paper on New Years Eve seeking a redeveloper for BB. Only the developer which was admittedly already meeting with the Borough 'responded'. The plan was decided and a developer was chosen entirely aside from any public input. The opportunities for criminal and biased behavior are obvious. And, as the Bound Brook consent decree clearly shows, even the admission of biased behavior has no bearing on the legality of the redevelopment process. In effect, absolutely anything goes.
3. Bound Brook's redevelopment 'plan' is admittedly no more than a plan to make a plan once flood control is in place. No one knows when, or if, this is to be. Meanwhile the flood victims are left, indefinitely, with the sword of condemnation hanging over their heads and properties. That NJ law should allow, actually encourage, such practice is a disgrace.

4. The redevelopment process in NJ gives local government and developers an uncompensated option on other people's property. The property owner needs to maintain the property and pay taxes and insurance, but the option holder has the right to condemn at any time. Government officials who fail to obtain such options on as much property as possible might be thought to be negligent. Especially if you are poor and/or minority, your local government has almost the duty to claim an option on your property. If this sounds more like Belarus than the USA, legislators should take a hard look, not only at the letter of redevelopment law, but also at its practice in places like Bound Brook.

5. Condemned property must receive 'just compensation'. But such compensation does not include compensation for the reduced (or eradicated) quality of life prior to condemnation (a period which can last decades in NJ). Nor does it include compensation for the difficulties and expenses of moving. Nor does it include compensation for the loss of one's job if 'just compensation' forces you to relocate to, say, Indiana. (The NJ legislature should survey just where the people uprooted by redevelopment in New Brunswick ended up. The League of Municipalities and other redevelopment champions love to cite New Brunswick as the poster child of successful redevelopment. Well, let's do an audit and see what its real costs and benefits were...)

6. It is part and parcel of redevelopment plans that developers will receive the environmental 'benefits' which existing owners have been refused forever. Noise walls and rail bridges and flood control (etc) are used as chips by local government, not to benefit their citizens (from whom these 'upgrades' are specifically withheld), but to benefit their own closed door negotiations.

NJSA Statute Flawed:

1. The statute has too many gray areas. Specificity is demanded for a development plan only in 'outline' and the state supreme court has ruled that this can mean whatever municipalities and developers want it to mean. The needs of residents to know their fate has no weight whatsoever in NJ law. No timeline is required. Specific properties do not have to be identified (despite the language of statute) since the 'outline' wildcard can be played here (as everywhere).

2. 'Just compensation' as measured by 'market value' is a license to steal. All the local government needs to do to diminish or limit market value is to designate an area for redevelopment and refuse investment in it *because it has been designated*. Of course property values are greatly affected and of course this is helpful in obtaining benefits (for whom?)

from developers. Instead of undefined 'just compensation' NJ law should include relocation rights and expenses and should compensate according to 'developed value'.

3. The process of designation and of redevelopment following designations must be transparent and fair. Closed meetings should be illegal. Especially closed meetings lacking minutes and recordings should be illegal.

4. In designation, rigorous studies should be required of existing conditions and of the possible ways to improve those conditions. Under existing law, any area can be an 'area in need of redevelopment' and any plan can be a lawful way to 'develop' it.

5. Special conditions in law should address minority areas and the victims of a natural disaster. (The Bound Brook case involves both.)

6. Redevelopment law needs to be brought into specific relation to civil rights law, to the Open Public Meetings Act and to the existing executive order of February 19, 2004 regarding environment justice. All of these are regularly flouted under existing redevelopment actions.