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The right ruling *Bailey's win in eminent domain suit a blow for property rights*

In plain English, the Arizona Court of Appeals has reaffirmed what the state constitution says in plain English regarding government's power of eminent domain: It can only be used for public purposes—not private ones.

It's a big victory for Randy Bailey, the Mesa brake shop owner who's been fighting City Hall's attempt to seize his property. It's also a welcome and timely victory for property owners throughout the state who may find themselves in the path of government's redevelopment juggernaut.

Mesa City Hall isn't alone in stretching the interpretation of "public use" to include taking one person's property and giving it to someone else whose development plans are more to the liking of municipal officials. Mesa redevelopment officials argue that their plans for new hardware and appliance stores on the corner of Country Club and Main Street would be a more attractive "gateway" to the downtown than Bailey's brake shop, another auto repair shop, and several old homes that have already been razed by the city.

Perhaps so. But it doesn't meet the constitutional standard for "public purpose," the appeals court ruled.

"The framers of our constitution

understood that one of the basic responsibilities of government is to protect private property interests," according to the unanimous ruling. "The constitution contains no language suggesting that protection of such interests from an improper exercise of eminent domain is any less important, or less fundamental, than the other rights protected in the constitution."

More to the point, the judges stated: "Taking one person's property for another person's private use is plainly prohibited, with a few specific exceptions not applicable here."

This need not spell the end of legitimate redevelopment projects that target truly blighted areas, and condemnation for public roads and buildings is still permissible. But governments must not trample on the rights of people who own property targeted for redevelopment.

That may well mean that government's assumed role of real estate broker and development micromanager will be curtailed. Good.

It's time to rediscover something called the private sector, whose owners and entrepreneurs quite often know better than government's central planners how to develop and use their property. It is, after all, theirs.