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CASINO REINVESTMENT DEVELOPMENT AUTHORITY, a public corporate body of the State of New Jersey,

Plaintiff,

v.

CHARLES BIRNBAUM; LUCINDA BIRNBAUM; LOUISE TAYLOR DAVIS; GERALD GITTENS; THE ATLANTIC CITY MUNICIPAL UTILITIES AUTHORITY; THE ATLANTIC CITY SEWERAGE CO.; and THE CITY OF ATLANTIC CITY,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – ATLANTIC COUNTY
DOCKET NO. L589-14

CIVIL ACTION

BRIEF OF DEFENDANTS CHARLES AND LUCINDA BIRNBAUM IN RESPONSE TO ORDER TO SHOW CAUSE

Submitted May 8, 2014

Table of Contents

Table of Authorities

STATUTES

OTHER AUTHORITIES

Introduction

This action is an unlawful attempt by the Casino Reinvestment Development Authority ("CRDA") to take the longtime family home of Charlie and Lucinda Birnbaum (the "Birnbaum Family Home") in a manner that violates both the New Jersey and United States Constitutions. CRDA seeks to take the Birnbaum Family Home in service of an idea named the "South Inlet Mixed Use Development Project," which appears to be (at best) a vague notion rather than a concrete plan. The so-called Project consists entirely of high-blown rhetoric and a handful of "conceptual" drawings provided by the Revel Casino, a private business that stands as the sole intended beneficiary of the Project. This Project fails to satisfy any of the requirements that would allow CRDA to take the Birnbaum Family Home under either state or federal law.

The Birnbaums have previously moved this Court to convert this case to a plenary proceeding and allow reasonable discovery. They file this response to the Order to Show Cause to ask the Court, in the alternative, to simply dismiss the Complaint with prejudice and enter final judgment against CRDA. As described in the Birnbaums' previous Motion, the bare-bones Complaint in this action fails to allege any of the facts CRDA would need to demonstrate in order to take the Birnbaum Family Home, and the available evidence makes clear that CRDA will be unable to demonstrate any of those facts at trial. For this reason, the Court would be well within its discretion to simply dismiss the Complaint with prejudice in lieu of converting this case to a plenary proceeding and allowing discovery.

FACTS

As demonstrated at greater length in the Birnbaums earlier Motion (see Br. in Supp. of Mot. to Convert & Permit Disc. at 2-11,[1] hereby incorporated by reference), several things

[1] The relevant factual background has been provided to this Court in support of the Birnbaums' earlier Motion, but for the Court's convenience, the earlier testimony—including a formatting-corrected version of Mr. Birnbaum's

appear to be true, each of which (standing alone) would mean CRDA's attempted condemnation here is unlawful:

First, the South Inlet Mixed Use Development Project is not a Project at all: It is an idea, a vague notion, that imposes no legal obligations on CRDA (or anyone else) to use the land it acquires in any particular way. Second, the South Inlet Mixed Use Development Project (to the extent it exists) is a taking for the purposes of redevelopment, but it meets none of the strict requirements the New Jersey Supreme Court has laid out for such takings. Third, neither CRDA nor anyone else has any plan for what to do with the Birnbaum Family Home after it is condemned—and, indeed, there is no reason to believe that the Birnbaum Family Home is necessary to the Project at all. Fourth, CRDA has failed entirely to undertake the kind of careful planning process that the United States Supreme Court has said is the hallmark of valid economic-development takings under the Fifth Amendment to the United States Constitution. And fifth, to the extent the Project exists, it is being undertaken for the sole benefit of a private entity—to wit, the Revel Casino.

These facts have not changed since the Birnbaums filed their Motion. If anything, the record has only grown clearer. As recently as last Friday, May 2, 2014, CRDA admitted that it had no documents that were responsive to an Open Public Records Act request for the development plan or redevelopment plan for the South Inlet Mixed Use Development project. Alban Cert. ¶ 17 & Exs. A & L. The "South Inlet Mixed Use Development Project" is nothing more than an abstraction.

Each of these key factual statements, if true, independently establishes that CRDA lacks the legal right to take the Birnbaum Family Home. Therefore, if this Court credits CRDA's

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earlier certification—has been combined into two bound volumes. See Certification of Dan Alban in Support of Brief of Defendants Charles and Lucinda Birnbaum In Response to Order to Show Cause ("Alban Cert.") ¶ 19. Each of those certifications will be cited in this brief with the witness's last name followed by "Cert.," e.g., "Walsh Cert."

admissions, CRDA's documents, or the undisputed sworn testimony in the accompanying declarations on any one of these points, it should dismiss CRDA's Complaint with prejudice and enter final judgment against CRDA at the summary hearing.[2]

ARGUMENT

As discussed above, the Birnbaums have previously moved this Court to convert this action to a plenary proceeding and allow reasonable discovery, but in the alternative, this Court should simply dismiss the Complaint with prejudice and enter judgment in favor of the Birnbaums.[3] As described below, the allegations of the Complaint are insufficient to allow CRDA to take the Birnbaum Family Home, and the available evidence indicates that CRDA will be unable to prove sufficient facts to justify this condemnation.

CRDA's attempted condemnation here fails for five independent reasons. First, CRDA has failed to provide (and cannot provide) any assurance of future public use. Second, CRDA has disregarded the New Jersey Constitution's clear limits on takings for redevelopment. Third, CRDA has made no showing (and cannot make a showing) that taking the Birnbaum Family Home is necessary to achieve any public use. Fourth, CRDA has not alleged (and cannot demonstrate) that it has undertaken the kind of careful planning required by federal courts in

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[2] However, in the alternative, if the Court believes that there is a genuine issue of material fact that prevents it from deciding this case, it should grant the Birnbaums' motion to convert to a plenary proceeding and permit discovery. And, as a matter of law, the Court should also stay all other proceedings, including CRDA's right to occupy the Birnbaum Family Home, until the right-to-take question is resolved. See N.J.S.A. § 20:3-11 ("When the authority to condemn is denied, all further steps in the action shall be stayed until that issue has been finally determined."). In other words, if a condemnee challenges the condemnor's right to take his property, all other steps—including the condemnor's right to occupy the property—must be stayed until the condemnee is given a full and fair chance to litigate his claims. See Twp. of Bridgewater v. Yarnell, 64 N.J. 211, 215 (1974) (noting that condemnation actions must be stayed until the authority to condemn is "completely determined").

[3] See, e.g., Twp. of Bloomfield v. 110 Washington St. Assocs., A-6770-04T5, 2006 WL 2472993, 2006 N.J. Super. Unpub. LEXIS 1694 (App. Div. Aug. 29, 2006) (unpublished and attached as Addendum A) (affirming dismissal of condemnation complaint where "the record lacked adequate basis for finding that the use of defendant's property posed a detriment to the public health, safety or welfare . . . or was underutilized in the same sense."); see also Courier News v. Hunterdon Cnty. Prosecutor's Office, 358 N.J. Super. 373, 378-379 (App. Div. 2003) ("A summary action is not a summary judgment motion. . . . [A] party in a summary action proceeding is not entitled to favorable inferences such as those afforded to the respondent in a summary judgment motion.").

takings cases. And fifth, the evidence demonstrates that the primary purpose of this condemnation is to benefit a specific private entity—the Revel Casino—and CRDA will be unable to demonstrate otherwise. For all of these reasons, Birnbaums are entitled to have final judgment entered in their favor.

I. Condemnors in New Jersey Are Required to Provide Reasonable Assurances of Future Public Use.

In Casino Reinvestment Development Authority v. Banin, 320 N.J. Super. 342 (Law Div. 1998), the court held that where there is a proposal to take property, there must be "adequate assurances" of future public use. Id. at 353. The Banin court rejected CRDA's attempt to take private properties for the benefit of the Trump casino in part because, "there is no time period established for any restrictions or conditions imposed on their use. . . . [N]othing explicitly prevents Trump from changing the use of the properties at any point it might choose after acquisition." Id. at 355, 358 ("Trump is not bound to use these properties for those [public] purposes"). This basic rule—that there be a concrete public use in place before condemnation is allowed—is not unique to New Jersey; it is also followed in other states. See Georgia Dep't of Transp. v. Jasper County, 586 S.E.2d 853, 857 (S.C. 2003) ("The involuntary taking of an individual's property by the government is not justified unless the property is taken for public use—a fixed, definite, and enforceable right of use[.]").

Here, the existing evidence—including admissions from CRDA that there is no project plan nor any documents indicating the intended use of the property where the Birnbaum Family Home is located, see Alban Cert. ¶¶ 9, 17 & Exs. G, L—demonstrates that there are no assurances of *any* particular future use, much less a public one. To the extent a use has been identified, it is purely private: redeveloping the area in a way calculated to benefit the Revel Casino. Under Banin, these facts mean that CRDA has no right to take the Birnbaum Family

Home. See id. at 355 (rejecting taking by CRDA for Trump casino and explaining that "[i]f . . . the primary benefit was a private rather than public one, then the condemnation actions should be dismissed."); see also infra at 11-13.

II. The New Jersey Constitution Places Strict Limits on Redevelopment Takings.

The South Inlet Mixed Use Development Project, as its name suggests, is a taking whose overall purpose is "development." But pure "development" is not a public use in New Jersey—that is, government agencies may not condemn property merely because they think they might be able to build something better on it. As the New Jersey Supreme Court explained at length in 2007, the power of eminent domain in New Jersey did not originally include the constitutional authority to condemn property for redevelopment at all. Gallenthin Realty Dev., Inc. v. Borough of Paulsboro, 191 N.J. 344, 360-62 (2007); see also James R. Zazzali and Jonathan L. Marshfield, Providing Meaningful Judicial Review Of Municipal Redevelopment Designations: Redevelopment In New Jersey Before And After *Gallenthin Realty Development, Inc. v. Borough Of Paulsboro*, 40 Rutgers L. J. 451, 468-75 (2009) ("Zazzali L. J. Art.") Only the addition of the Blighted Areas Clause to the New Jersey Constitution created that power, and the redevelopment power was created with strict limits. Gallenthin, 191 N.J. at 373; see also Zazzali L. J. Art. at 490-97.

The Blighted Areas Clause *only* allows property to be condemned for redevelopment of "blighted areas," and it does not permit the condemnation of property that is "not fully productive" or merely being used "in a less than optimal manner." Id. at 348, 365; see also Zazzali L. J. Art. at 457 & n.30 (observing that "the constitution limits redevelopment to only 'blighted' areas'" and further noting that "municipalities must first demonstrate that an area is 'blighted' before they can engage in redevelopment."); accord Harrison Redev. Agency v.

DeRose, 398 N.J. Super. 361 (App. Div.), certif. denied sub nom. Harrison Redev. Agency v. Harrison Eagle L.L.P., 196 N.J. 87 (2008) (reinforcing Gallenthin's holding that blight must be found to in order to exercise powers based on the Blighted Areas Clause). In other words, the New Jersey Constitution allows condemnations to remove harmful uses, but it does not allow condemnations that only seek to replace current uses with better ones.

New Jersey courts are hardly alone in rejecting takings designed to make a given property more fully productive or to be used in a more optimal manner (absent actual findings of blight). In 2004, for example, the Michigan Supreme Court rejected economic-development takings in County of Wayne v. Hathcock, 471 Mich. 445 (2004) (overturning Poletown Neighborhood Council v. Detroit, 410 Mich. 616 (1981)); see also, e.g., Sweetwater Valley Civic Ass'n v. City of Nat'l City, 555 P.2d 1099, 1103 (Cal. 1976) (rejecting taking because "it is not sufficient to merely show that the area is not being put to its optimum use, or that the land is more valuable for other uses"); accord Gallenthin, 191 N.J. at 364 (citing Sweetwater Valley). And the only three state supreme courts that have considered the use of eminent domain for pure economic development in the past decade have squarely rejected it.[4] See City of Norwood v. Horney, 853 N.E.2d 1115 (Ohio 2006); Bd. of Cnty. Comm'rs v. Lowery, 136 P.3d 639 (Okla. 2006); Benson v. State, 710 N.W.2d 131 (S.D. 2006). This is in keeping with a long line of cases in which the high courts of other states have found that the power of eminent domain cannot be exercised simply in the pursuit of alleged economic benefits or assertedly superior uses. See, e.g., Georgia Dep't of Transp., 586 S.E.2d at 856 (rejecting the proposition that "economic benefit is a

[4] New York's Court of Appeals, alone among American high courts, has taken a sweeping view of the government's ability to condemn for blight removal. See Kaur v. New York State Urban Dev. Corp., 933 N.E.2d 721, 730-31 (N.Y. 2010) (describing the limited role of New York courts in reviewing blight findings). This position is at odds with both the out-of-state cases cited in the main text and, most importantly, with Gallenthin itself. See, e.g., Gallenthin, 191 N.J. at 373 (describing the "substantial evidence" standard used by New Jersey courts when evaluating blight findings).

sufficient public use" and noting that "[i]t is well-settled that the power of eminent domain cannot be used to accomplish a project simply because it will benefit the public."); Sw. Ill. Dev. Auth. v. Nat'l City Envtl., L.L.C., 768 N.E.2d 1, 9 (Ill. 2002) (adhering to "the long-standing rule that 'to constitute a public use, something more than a mere benefit to the public must flow from the contemplated improvement'" (citation omitted)).

Nothing in the Complaint or the available evidence shows that CRDA's current condemnation fits within the limits defined by Gallenthin. As far as the Complaint reveals, CRDA is simply ignoring these restrictions. The Complaint and all available evidence indicate that CRDA is simply trying to take the Birnbaum Family Home because it can imagine putting something better there—that is, because it believes it is being used "in less than an optimal manner." CRDA has made no effort to assess whether the Birnbaum Family Home or the surrounding area fit within the definition of the Blighted Area Clause. There is no allegation or evidence that the property is "dilapidated" or "deteriorated" or is having a "decadent effect" on surrounding properties as required by Gallenthin. See 191 N.J. at 362-63, 365; see also Zazzali L. J. Art. at 458 (noting that a "finding of 'blight' is not entitled to deference by a reviewing court unless that determination is supported by substantial evidence on the record."). All the evidence indicates that CRDA and Revel simply think it would be nice to have a mixed-use development in the area instead of the Birnbaums' townhouse. This kind of taking—premised on the idea that the condemnor can think of a better use than the current owner—has been squarely rejected by the New Jersey Supreme Court.

III. The Available Evidence Shows That Taking the Birnbaum Family Home Is Unnecessary.

New Jersey allows the condemnation of property only if that property is *necessary* to achieve some public use. See N.J.S.A. § 5:12-182(b) (authorizing CRDA to exercise eminent

domain when "necessary to complete a project"); Gallenthin, 191 N.J. at 372 (interpreting New Jersey Constitution's Blighted Areas Clause to only allow non-blighted parcels to "be included in a redevelopment plan if necessary") (emphasis added). Even if the overall South Inlet Mixed Use Development Project is legally valid, then, CRDA would still need to establish that the Birnbaum Family Home, located on the extreme edge of the Project area, is necessary to that Project. The existing evidence indicates that it will be unable to do so.

This taking fails the necessity test in two distinct ways. First, there appears to be no reason to include the Birnbaum Family Home in the Project area in the first place. Condemnors in New Jersey do not have limitless discretion to decide what property to condemn, and courts set aside condemnations where the inclusion of a particular piece of property is arbitrary or otherwise unjustified. See Gallenthin, 191 N.J. at 372-73 (holding that the "necessity" test is whether a particular property is "integral to" a legitimate taking and that the condemnor must "establish a record that contains more than a bland recitation of applicable statutory criteria and a declaration that those criteria are met"); Yarnell, 64 N.J. at 214-15 (holding that property owners had made out a sufficient prima facie case that the condemnor's proposed sewer-line route was arbitrary); Twp. of W. Orange v. 769 Assocs., L.L.C., 172 N.J. 564, 578 (condemnation may be set aside for abuse of discretion by condemnor).

And the inclusion of the Birnbaum Family Home here is arbitrary. The property is located on the extreme edge of the Project area. It is not necessary to maintain a contiguous project area—indeed, it is a thumb awkwardly jutting out of an otherwise coherent group of properties. See, e.g., Walsh Cert., Ex. B at WalshOPRA8/20/2012-0007, -0015. It is not part of a larger block of property being condemned—indeed, most of the properties on the Birnbaums' block are being spared condemnation. See id. And CRDA's own admissions reveal that it has no

particular plans for the property where the Birnbaum Family Home is located. See Alban Cert. ¶ 9 & Exs. E, G. All of this indicates that there is no necessity for this taking.

Second, this taking is unnecessary because CRDA has no concrete plans for any of the properties it is taking. As documented above, the closest CRDA has come to identifying a concrete use for the Birnbaum Family Home is by frankly calling it a "land bank." See Br. in Supp. of Mot. to Convert & Permit Disc. at 10-11; Walsh Cert. Ex. B, WalshOPRA8/20/2012-0021; Gordon Cert., Ex. E; Birnbaum Cert. ¶¶ 43-44 & Ex. H, I. But courts look to the immediacy and certainty of the condemnor's plans for the property to determine the necessity of the taking. See, e.g., Regents of Univ. of Minn. v. Chicago & N. W. Transp. Co., 552 N.W.2d 578, 580 (Minn. Ct. App. 1996) (rejecting condemnation as unnecessary because it was supported only by "speculative purposes"; "necessity" in the context of eminent domain "means now or in the near future"); Krauter v. Lower Big Blue Nat. Res. Dist., 259 N.W.2d 472, 475-76 (Neb. 1977) (holding that "a condemning agency must have a present plan and a present public purpose for the use of the property before it is authorized to commence a condemnation action . . . . [T]he possibility that the condemning agency at some future time may adopt a plan to use the property for a public purpose is not enough to justify a present condemnation."); State ex rel. Sun Oil Co. v. City of Euclid, 130 N.E.2d 336 (Ohio 1955) (holding that land may not be appropriated for a contemplated but undetermined future use); see also Banin, 320 N.J. Super at 358-59 (holding that when a "public agency acquires . . . property for the purposes of conveying it to a private developer," there must be advance "assurances that the public interest will be protected").

This condemnation is therefore premised on exactly the kind of plan that has been squarely rejected by courts in other states: "condemn first, decide what to do with the property

later." City of Stockton v. Marina Towers L.L.C., 88 Cal. Rptr. 3d 909, 913 (Cal. Ct. App. 2009) (rejecting taking as unnecessary). Because CRDA has no concrete plans for any of the properties it is condemning, its condemnations are therefore unnecessary and unlawful.

IV. CRDA Has Failed to Meet the Planning Requirements of Federal Law.

While the United States Supreme Court has held that federal law (unlike New Jersey law) allows condemnations for economic development, it has only held that they are permissible where the condemning agency has undergone an elaborate planning process. As the Court noted in Kelo v. City of New London, the condemnor in that case had considered numerous possible plans and uses, and the city conducted studies and multiple public hearings when considering the plan. 545 U.S. 469, 473-474 (2005); see also Nicole Stelle Garnett, Planning as Public Use?, 34 Ecology L.Q. 443, 447 (2007) (discussing Kelo's "planning mandate" and Justice Kennedy's concurrence "suggesting that the lack of comprehensive planning might render certain takings presumptively invalid"). The Kelo majority explicitly conditioned its approval of the condemnations in that case on "the comprehensive character of the plan [and] the thorough deliberation that preceded its adoption." Kelo, 545 U.S. at 484. Where these elements are missing, courts reject attempted condemnations. See, e.g., Middletown Twp v. Lands of Stone, 939 A.2d 331, 338 (Pa. 2007) (concluding that "evidence of a well-developed plan of proper scope is significant proof that an authorized purpose truly motivates a taking"); Mayor & City Council of Balt. v. Valsamaki, 916 A.2d 324, 352-53 (Md. 2007) (noting absence of clear plan for the use of condemned property, and contrasting with Kelo); R. I. Econ. Dev. Corp. v. Parking Co., L.P., 892 A.2d 87, 104 (R.I. 2006) (emphasizing difference between condemnor's approach and the "exhaustive preparatory efforts that preceded the takings in Kelo").

The record here indicates neither a comprehensive plan nor thorough deliberations. At best, the record indicates that Revel has shown CRDA some "conceptual plans" of what it would like to see in its neighborhood, and CRDA has condemned property based on nothing more than these concepts. That does not fall within the boundaries of federal law as laid out in Kelo.

V. The South Inlet Mixed Use Development Project Appears Primarily Intended to Benefit Revel.

All of the available evidence—the fact that CRDA has no concrete plans, the fact that Revel appears to be the only entity with any notion of what it wants done with the properties being condemned, and the fact that CRDA appears, even internally, to defer entirely to Revel's judgment about this Project—indicate that the South Inlet Mixed Use Development Project is not meant to benefit the public at all. Instead, it is a pretextual taking meant to benefit Revel. That is impermissible under New Jersey law. See, e.g., Banin, 320 N.J. Super. at 355 (rejecting taking by CRDA for Trump casino and explaining that, "[i]f . . . the primary benefit was a private rather than public one, then the condemnation actions should be dismissed.").

It is also impermissible under the United States Constitution. Both the majority and the concurrence in Kelo made clear that courts should reject pretextual takings meant to benefit a private party. Kelo, 545 U.S. at 478; see also id. at 491 (Kennedy, J., concurring). Both federal courts and state supreme courts (both before and after Kelo) have routinely held that pretextual takings are unconstitutional. See In re Opening a Private Rd. ex rel. O'Reilly, 607 Pa. 280, 299 (Pa. 2010) (emphasizing that under both federal and state constitutions, "the public must be the primary and paramount beneficiary of the taking" and that "merely . . . the presence of some public benefit" is insufficient); Cnty. of Hawaii v. C&J Coupe Family Ltd. P'ship, 198 P.3d 615, 647-49 (Haw. 2008) (holding that Kelo and relevant Hawaii state constitutional law require courts to look for "the actual purpose" of a taking to determine whether the official rationale was

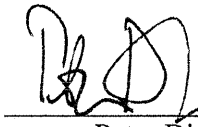
"a mere pretext"); Middletown Twp., 939 A.2d at 337 (holding that courts must look for "the real or fundamental purpose behind a taking . . . the true purpose must primarily benefit the public" (internal quotation marks and citation omitted)); Franco v. Nat'l Capital Revitalization Corp., 930 A.2d 160, 173-74 (D.C. 2007) (remanding a takings case to the trial court with instructions to "focus primarily on the benefits the public hopes to realize from the proposed taking" and explaining that "[i]f the property is being transferred to another private party, and the benefits to the public are only 'incidental' or 'pretextual,' a 'pretext' defense may well succeed"); Daniels v. Area Plan Comm'n, 306 F.3d 445, 465-66 (7th Cir. 2002) (invalidating taking where the true purpose was "to confer a private benefit" and explaining that "[t]he underlying purpose of a government taking that transfers a property interest to a private entity must be for a public benefit, and in this case any speculative public benefit would be incidental at best."); Armendariz v. Penman, 75 F.3d 1311, 1321 (9th Cir. 1996) (en banc) (invalidating a taking because the official rationale of blight alleviation was a pretext for "a scheme . . . to deprive the plaintiffs of their property . . . so a shopping-center developer could buy [it] at a lower price"); MHC Fin. Ltd. P'ship v. City of San Rafael, No. C 00-3785VRW, 2006 WL 3507937, at *14; 2006 U.S. Dist. LEXIS 89195, at *43 (N.D. Cal. Dec. 5, 2006) (noting that Kelo requires "'careful and extensive inquiry into whether, in fact, the development plan is of primary benefit to the developer . . . [and] only incidental benefit to the City.'" (quoting Kelo, 545 U.S. at 491 (Kennedy, J., concurring)); Aaron v. Target Corp., 269 F. Supp. 2d 1162, 1174-76 (E.D. Mo. 2003), rev'd on other grounds, 357 F.3d 768 (8th Cir. 2004) (holding that a property owner was likely to prevail on a claim that a taking ostensibly to alleviate blight was actually intended to serve the interests of the Target Corporation); Cottonwood Christian Ctr. v. Cypress Redev. Agency, 218 F. Supp. 2d 1203, 1229 (C.D. Cal. 2002) ("Courts must look

beyond the government's purported public use to determine whether that is the genuine reason or if it is merely pretext."); 99 Cents Only Stores v. Lancaster Redev. Agency, 237 F. Supp.2d 1123, 1129 (C.D. Cal. 2001) ("No judicial deference is required . . . where the ostensible public use is demonstrably pretextual."). The case law is quite clear: Where, as here, the facts demonstrate that a taking is meant to benefit a private party rather than the public at large, courts invalidate that taking.

CONCLUSION

Based on CRDA's failure to allege essential facts and all the available evidence—much of it from CRDA's own admissions and CRDA documents—CRDA's attempt to take the Birnbaums' longtime family home is unlawful (on several different grounds). As such, the Birnbaums are entitled to have the Complaint dismissed with prejudice and final judgment entered in their favor. In the alternative, to the extent the Court finds there are any disputes regarding material facts in this case, the Court should grant the Birnbaums' outstanding motion to convert this case to a plenary proceeding and allow discovery before any further steps are taken in the condemnation.

Dated: May 8, 2014



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