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Widowed Homeowner Foils Trump Bid in Atlantic City

Judge Rejects Condemning Land for Casino

By DAVID M. HERSZENHORN

NEWARK, July 20 — It was a case that pitted a widowed homeowner and the owners of two small businesses in Atlantic City against the state and Donald J. Trump, one of the brashest personalities in the casino business. And today, the little guys won.

A Superior Court judge in Atlantic City ruled today that New Jersey was not allowed to seize three small properties that stand in the way of an expansion of the Trump Plaza Hotel and Casino. The decision ended a five-year condemnation dispute that had raised the fundamental question of whether the government could condemn land on behalf of someone else.

In this case, the Casino Reinvestment Development Authority, a state agency, had sought to seize three properties — an elderly widow's home, a family-run Italian restaurant and a pawnshop — by invoking the Federal and state constitutions, which allow property to be condemned for "public use." The authority then planned to turn the properties over to the Trump Organization for additional landscaping and parking, including a waiting area for guest limousines.

In an oral decision, the judge, Richard Williams, rejected the authority's request, saying that there were no guarantees that the Trump Organization would use the land appropriately. If the properties were transferred, he said, Trump Plaza could just as easily choose to extend its casino floor instead of adding the new parking and trees that were the basis of the authority's condemnation request.

With the owners of the properties and their families crowded in the front row of the Atlantic City courtroom this morning, Judge Williams said, "The court considered the consequences and effects of these three condemnation actions and concluded that the primary interest served



Vera Coking, a widowed homeowner, left, along with the owners of a pawnshop and a family-run Italian restaurant in Atlantic City, defeated a move by the Trump Organization to add additional parking and landscaping to the Trump Plaza Hotel and Casino by having their properties condemned.

here is a private rather than a public one and as such the actions cannot be justified under the law."

"Location, location, location," said Peter Banin, one of the owners who emerged victorious from today's ruling. "I am quoting Mr. Donald J. Trump," Mr. Banin said, clearly elated as he sat in his pawnshop, the Golden Island, which buys gold from cash-strapped gamblers. "How do you spell relief? Case dismissed."

Nicholas Ribis, the president of Trump Hotels, did not return telephone calls seeking comment today. James B. Kennedy, the executive director of the authority, also did not return a telephone message.

The ruling is a setback for the Trump Organization and for the authority. In the last 13 years, the authority has rebuilt Atlantic City by condemning 300 to 400 properties, almost all to make way for expansions and improvements to casinos along the city's Boardwalk.

In his decision, Judge Williams cited a case in Vicksburg, Miss., in which a condemnation that would have benefited a Harrah's casino was rejected because a judge found no guarantee between the government and the casino that the condemned land would be expressly used for the reasons outlined in the condemnation request.

Judge Williams also said in his decision that he would have granted the authority's condemnation applications had there been a firm contract between the authority and Trump Plaza as a guarantee that the seized properties would be used solely for additional parking and new trees. Lawyers for the property owners suggested that the Trump Organization's true interest in the properties was to expand its casino and hotel space and that the company would not be interested in acquiring the land with restrictions.

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Today's decision was the first time a judge had blocked a condemnation in New Jersey on the ground that there was no guarantee for the use of the seized properties, and the case could have implications for other eminent domain cases being litigated in Atlantic City and throughout the state. Lawyers for the property owners also said they hoped the decision signaled a new nationwide trend in stricter judicial scrutiny of condemnation applications.

"We are really thrilled that we have been able to set a precedent that this condemnation was not for a public purpose," said Dana Berliner, a staff lawyer with the Institute for Justice, a nonprofit public-interest law firm in Washington that concentrates on property rights cases. "If this kind of analysis is adopted throughout the country, it will be a revolution in condemnation law and a very important restraint on the ability of government to take private property and hand it over to other private parties."

Ms. Berliner helped represent Vera Coking, the elderly widow whose house on Columbia Street was one of the properties that the authority sought to seize. Mrs. Coking's house is wedged between the Trump Plaza Hotel and Casino and Caesar's Palace, so close to Trump Plaza that visitors knocking on her front door can feel the spray from sprinklers used to water the hotel's grass.

Mrs. Coking's daughter, Branwen Torpey, said she and her mother were overjoyed by the judge's decision. "It feels good," she said. "It feels like a big weight's been lifted off us. We have had a lot of help from the American people, little people just like us who work and earn what they have."

The case attracted national attention when Garry Trudeau drew six "Doonesbury" cartoons needling Mr. Trump. Mrs. Coking later appeared on the ABC television news show "20/20."

"You are not just talking about a lifetime of memories," Ms. Torpey said. "Not just a house but a home that you have spent your whole life in. To have someone, anyone, regardless of who they are come and tell you that it's not yours and you can't make your own decision, it's tough to understand and even tougher to accept."

The authority and the Trump Organization can appeal today's ruling but it was unclear whether either entity would do so. The authority, which had been criticized for its role in the effort to seize the three properties, had sought to rescind the condemnation application but was pressured to continue with the case by the Trump Organization.

The authority had offered to purchase all three properties — Mrs. Coking's home for \$251,250, Mr. Banin's shop for \$189,500 and Sabatini's Restaurant, an Italian eatery run by Clare and Vincent Sabatini since 1965, for \$700,000. None of the owners would agree to sell for those prices.

Mr. Trump also appeared on "20/20" last month to discuss the case. "In life you have a thing called condemnation," he said on the show. "And cities have the right to condemn for the good of a city — whether it's New York, whether it's Los Angeles, whether it's any other place. Atlantic City is one of those cities, and it's got the right to condemn." He added that he thought Mrs. Coking's house was ugly.