



INSTITUTE FOR JUSTICE

February 28, 2017

Emerson Borough Council
1 Municipal Place
Emerson, NJ 07630
Via Email

Re: Redevelopment in Emerson

Dear Mayor Lamatina and the Emerson Borough Council:

The Institute for Justice urges you to rescind your designation of Block 419 as a “condemnation redevelopment zone,” decommission your study of Emerson’s Central Business District, and publicly disavow the use of eminent domain for private development. It is an abuse of power to use the state’s Local Redevelopment and Housing Law to take perfectly fine small businesses and homes—not to remediate real threats to public health and safety, but to transfer that land to a developer for private development.

The Institute for Justice is a public interest, civil liberties law firm and the leading advocate against eminent domain abuse nationwide. We represented Susette Kelo and her neighbors before the U.S. Supreme Court in the infamous *Kelo v. City of New London* case, which sparked a nationwide revolt against eminent domain abuse that continues to this day. In New Jersey, we have successfully represented property owners in Long Branch and Atlantic City in their challenges to redevelopment plans and eminent domain abuse similar to that contemplated here. We are currently working with the newly formed group of small-business and home owners in Emerson’s downtown area, Stop Emerson Eminent Domain (or SEED).

The cloud of condemnation looms heavy over the downtown district, starting with block 419 and spreading to every property owner who was originally put on notice that they may be on the chopping block. We understand that the borough is telling Emerson residents that these efforts are necessary in order to build affordable housing and avoid “intense and overly dense development in inappropriate locations...including in single family residential neighborhoods.” Meanwhile, the borough’s agreement with the developer explicitly states that:

“The Redeveloper and the Borough shall explore alternative sites to accommodate all of the Low and Moderate Housing obligations associated with this Project at another location in the Borough...”

Leveraging the fear of overdevelopment to rally support for the condemnation of innocent property owners is manipulative and shameful.

We are confident that the borough, JMF Properties, and the community can work together to solve any legitimate affordable housing issues. Using the draconian power of eminent domain to punish innocent property owners—whether purely for the private gain of a for-profit developer, or to bail the borough out of its failure to provide affordable housing in the past—is not the solution.

Eminent domain is for public use—things like roads and schools—not for private development purposes. Courts nationwide—including in New Jersey—are rejecting eminent domain as a tool for private economic development, and municipalities that have continued seizing land for developers have faced monumental bad publicity and years of litigation.

Up until recently, New Jersey municipalities have habitually abused the power of eminent domain through the redevelopment process to achieve their development goals. This is no longer the case as the misuse of redevelopment law and eminent domain abuse are no longer tolerated by the public. National polls show 80 to 90 percent opposition to eminent domain abuse, and 44 states have passed reforms to better protect property owners.

Across the country, we have seen redevelopment plans predicated on the use of eminent domain like that proposed for downtown Emerson fail miserably. In the process, this kind of abuse drives down property values, private investment, and constituents' trust. Just look at Fort Trumbull in New London, Connecticut, home to the *Kelo* case: After years of litigation, millions in taxpayer dollars spent and a trip to the U.S. Supreme Court, all that is left of the former neighborhood is overgrown weeds and feral cats. The developer left New London and, shortly thereafter, Pfizer, which was to have benefited from the development, followed. Meanwhile, cities that have pursued development with a respect for their citizens' property have enjoyed an influx of *billions* in private investment. Private negotiation, not government force, continues to spur development in this country as it has for centuries.

If you continue with this redevelopment process, you are sending a message to small businesses and home owners across Emerson that their livelihoods and their homes are not safe. You are also sending the same message to future businesses and potential residents contemplating moving into Emerson, many of whom will think twice before investing their futures there.

We encourage you to rescind your designation of Block 419 as a “condemnation redevelopment zone,” decommission your study of Emerson’s Central Business District, and publicly disavow the use of eminent domain for private development. Binding action by the borough must be taken to ensure all of these property owners get to keep what they have worked so hard to own, and the cloud of condemnation is lifted.

We are confident you want what is best for Emerson; eminent domain is not it. Please do not hesitate to contact me at (703) 682-9320 or cwalsh@ij.org.

Best,

A handwritten signature in black ink, appearing to read 'C Walsh', written in a cursive style.

Christina Walsh
Director of Activism and Coalitions