

# Commentary

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## Will the Missouri Supreme Court Leave Your Home at Risk?

By Dave Roland

When Homer Tourkakis set up his dentistry practice 20 years ago in Arnold, Mo., he never dreamed that the city could take his well-kept office and give it away to someone else — but that is exactly what the city’s officials are trying to do. Hoping that a new shopping center would generate more tax money than Dr. Tourkakis’ practice, the city declared his building and those around it “blighted,” in an effort to justify giving the properties to THF Realty for construction of the Arnold Triangle project.

Knowing that the state Constitution is supposed to protect Missourians’ right to keep private property, Dr. Tourkakis asked the courts to enforce his constitutional rights and prevent the taking of his business. On January 17, the Missouri Supreme Court will hear his case, and its decision will have repercussions for nearly every home and business owner in the state.

One hundred years ago, there would have been absolutely no doubt that the Court would side with Dr. Tourkakis. Missouri’s Bill of Rights has four separate provisions that emphasize citizens’ fundamental right to keep what they own unless their property is necessary for a true public use, like roads, parks, or public buildings. The early cases interpreting those provisions made clear that the right of individuals to “enjoy the gains of their own industry” was vital and could not be subverted unless the government proved the necessity of violating that right.

During the last 50 years, however, judges have steadily given municipalities, unelected government authorities, and even some private companies more and more power to take homes, businesses, and houses of worship from their owners so that other private interests could profit from them. This is usually accomplished using a legal loophole that allows municipalities to condemn properties, and possibly entire neighborhoods, in areas they deem “blighted.” Dozens of Missouri cities have applied blight designations to thousands of normal, well-kept properties in order to create sweetheart deals for commercial developers. As a result, Missouri has developed one of the nation’s worst records for eminent domain abuse.

### Summary

On January 17, the Missouri Supreme Court will hear arguments in *City of Arnold v. Tourkakis*. This case will decide whether the Missouri Constitution still offers property owners any meaningful protection against municipalities seeking to give their homes, businesses, or houses of worship to commercial developers.

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These sorts of abuses have been pervasive among cities in the

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Saint Louis metro area. For example, the city of Sunset Hills only recently ended a seven-year nightmare for more than 300 citizens threatened with condemnation in the name of redeveloping what had been a perfectly normal neighborhood. Eureka designated as “blighted” more than 900 acres of the old Allenton area to intimidate unwilling homeowners into selling their properties to the developer of Eureka Commons — eventually leading to several uses of eminent domain. Meanwhile, Valley Park’s residents have been forced into a state of perpetual anxiety because of the city’s repeated efforts to designate homes and businesses as blighted in order to attract commercial developers.

The Kansas City area has also seen its share of cities abusing eminent domain. The city of Liberty threatened to condemn Liberty Christian Union Church, two charities, and several small businesses to make way for the Liberty Triangle development. Despite the developer’s insistence that it does not plan to use eminent domain, Raytown’s downtown redevelopment plan reserves the right to take homes and businesses whose owners prove unwilling to sell on the city’s terms. Meanwhile, the Sugar Creek Board of Aldermen is using the city’s own negligent upkeep of roads, sidewalks, and utility lines to “blight” more than 70 homes and businesses so their owners can be forced to sell them to the city’s chosen developer.

In addition to the widespread use of eminent domain in Missouri’s major metropolitan areas, many smaller cities in more rural areas have demonstrated a willingness to sacrifice their citizens’ rights in the pursuit of higher tax revenues. The city of Branson condemned two properties and used threats of eminent domain to force Harvest Evangelical Free Church and a number of businesses to make way for a Bass Pro Shop, hotels, and luxury condos in the Branson Landing development. Rolla spent four years tailoring its blight findings to suit potential commercial developers and threatening eminent domain against the affected properties before finally allowing the rightful owners to manage the area’s redevelopment. Meanwhile, Ozark’s City Council recently voted unanimously to leave in place a blight designation whose 47 acres include numerous well-kept properties near the Finley River. Even though the city recently passed an ordinance forbidding the use of eminent domain for its redevelopment project, the threat to property owners will only truly be extinguished if the bogus blight designation is lifted.

When the Missouri Supreme Court hears arguments in *City of Arnold v. Tourkakis* on Thursday, it will have to choose between two very different paths. The Court could side with the city and its commercial developers, meaning that virtually every home, business, and house of worship in the state could be condemned and given away for the profit of a government-chosen owner. Or the Court could turn the tide in favor of individual liberty by deciding that the state Constitution’s protections for private property still have meaning. So watch this case carefully — your constitutional freedoms are hanging in the balance.

*Dave Roland has litigated eminent domain cases in state and federal courts and has offered expert testimony on the issue to state legislatures. He is a policy analyst at the Show-Me Institute, a Missouri-based think tank. The Show-Me Institute’s “friend of the court” brief in City of Arnold v. Tourkakis is available online at [www.showmeinstitute.org](http://www.showmeinstitute.org).*

***The Missouri Supreme Court could turn the tide in favor of individual liberty by deciding that the state constitution’s protections for private property still have meaning.***

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