

# Commentary

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## Court's Eminent Domain Ruling Endangers Property Rights

By Nicholas A. Loyal

For decades, the property rights of Missouri residents have been disregarded as municipalities throughout the state plowed through personal history in the disastrous pursuit of progress. Recently, the state's highest court had a chance to correct this wrong and restore a sense of safety to the minds of Missouri's home and business owners. However, the court neglected this opportunity by turning in a terrible decision that served nothing more than the status quo, and acted as reaffirmation of an invasive trend that should worry every property owner.

On March 18, the Missouri Supreme Court handed down a 6-1 decision in favor of "development" trumping property rights in the matter of *City of Arnold v. Homer Tourkakis*. Dr. Tourkakis, a dentist who has been practicing in Arnold for more than 20 years, was threatened with the loss of his office when the city sought to acquire land through the use of eminent domain for the new Arnold Commons shopping center. Had the city needed to exercise this power for a legitimate public use, Dr. Tourkakis' might have understood the property invasion. However, the idea of Arnold subverting this constitutional power to forcefully transfer property from one private party to another was enough not only for Tourkakis to reject the city's offer, but to seek relief from the highest court in the state.

*Arnold v. Tourkakis* was a rare opportunity for Missouri to protect the individual rights of citizens, and emphatically stamp out an unjust abuse of municipal power. The court could have reassured citizens that the homes they worked to build would always be their castles, and that the businesses they labored to run would be free from unjust interference.

Instead, the court found in favor of the city — and watched that chance sail by.

According to the decision, Arnold is justified in using the power of eminent domain to seize Tourkakis' property (which had been blocked off by surrounding construction for more than a year). This decision overturned a prior ruling by a state trial court because,

### Summary

*Arnold v. Tourkakis* was a rare opportunity for Missouri to protect its citizens property rights, but the state's Supreme Court ruled in favor of eminent domain for private development — letting that chance sail by. Other property owners throughout the state must now face the sad reality that everybody's homes and businesses are at risk.

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according to the opinion authored by Judge Mary Russell, “The trial court erred ... in dismissing the City’s condemnation action. The City is authorized under several statutes ... to exercise eminent domain.”

These words have struck a blow against the property rights of every Missourian. In the past few weeks, property owners in the Liberty and Sugar Creek townships near Kansas City have been forced to face the sad reality that their homes may be lawfully seized for private development. Meanwhile, across the state, as homeowners in Valley Park begin to pull sandbags away from the flooded Meramec River, they must wonder whether the homes they worked so hard to protect might similarly be taken away — a threat they faced in November.

Thankfully, though, there is still hope. The Court failed to rule on the controversial nature of Missouri’s “blight” definition, which has allowed municipalities in the past to condemn pristine areas and doom them to economic failure. Also, as highlighted by Judge Teitelman in the lone dissent to the majority opinion, the section of Missouri’s Constitution that ostensibly authorizes Arnold to wield the power of eminent domain “does not expressly authorize the wholesale delegation of such power to third-class cities” — a class that the city of Arnold falls under.

However, the few glimmers of hope that still exist for the case do not make up for the fact that Tourkakis will almost certainly lose his office, and that any orthopedist in Joplin or homeowner in Chesterfield has lost a chance to protect the property that is rightfully theirs. If Missouri citizens will ever feel completely secure about the fact that their homes are their castles, they first need to accept that the status quo will continue with every decision made by the judiciary and legislature. Only the efforts of citizens, working within their rights to correct this problem, will foster necessary progress. We should hope that these efforts succeed, and — for all our sakes — that it happens soon.

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