

Riviera Beach Tiff Shows 'It Can Happen Here'

By Matt Warner – February 2006

"It can't happen here" was the first response of Florida's public officials after the U.S. Supreme Court's June 2005 ruling in *Kelo v. City of New London*. Attorney General Charlie Crist even issued a statement evidently intended to calm Floridians' fears that their local governments suddenly had *carte blanche* authority to seize private property.

Fortunately, Floridians' initial complacency has been swept away by events in the southeast Florida community of Riviera Beach, which is now the site of one of the biggest eminent domain disputes since the 1950s. If the city is allowed to carry out its redevelopment plan, as many as 6,000 residents could be displaced.

The \$2.4 billion plan's proponents promise the usual benefits: new jobs and a revitalized economy. However, outraged residents whose homes would be subject to condemnation under this plan have pointed out major flaws in the city's efforts to justify its use of eminent domain.

Homeowner Martha Babson was among those alarmed by the city's 2001 study declaring her neighborhood "blighted." It's a designation that--under Florida law--gives local governments the authority to use eminent domain. So Babson decided to conduct her own study. Walking the entire 400-acre area that is marked for redevelopment, she found numerous inconsistencies between the blight study's findings and the reality on the ground.

Babson's discovery garnered little attention for several years, until the *Palm Beach Post* reported some of her findings last November. Among them, Babson found homes where the city's study had listed vacant lots. She also found structures in good condition that the city's study had listed as dilapidated and beyond repair.

According to Dana Berliner of the Institute for Justice, which defended the New London homeowners in the *Kelo* case, such bogus blight studies are common. She told the *Post* "Everybody knows the purpose [of blight studies] is to find the area blighted. They assume no one will really go through the study itself with a fine-tooth comb."

When it became obvious that Florida's property owners weren't immune to the impact of the *Kelo* ruling, House Speaker Allan Bense appointed a special committee on property rights. Its discussions thus far have focused mostly on issues surrounding the criteria for declaring an area blighted and subject to the use of eminent domain. The committee is expected to recommend narrowing those criteria.

In the meantime, Babson and her fellow homeowners continue to fight Riviera Beach's redevelopment plan. One of its principal advocates, Riviera Beach Mayor Michael D. Brown, warns that without redevelopment, his city will die. The case has received national attention.

"We're definitely in Tiananmen Square: one little guy in front of all those tanks," Babson told a *Los Angeles Times* reporter. "We've slowed them down, but we haven't stopped them." Only the Florida Legislature can do that.

Matt Warner was Director of Public Affairs for The James Madison Institute, a nonpartisan policy center based in Tallahassee. He has recently joined the staff of the Atlas Foundation in Washington, D.C. A different version of this article appeared in the February issue of Budget & Tax News, which circulates nationwide.