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Eminent domain challenge resumes

Boxing gym appeals dismissal of lawsuit

By [Janine Zuniga](#) ([Contact](#)) Union-Tribune Staff Writer

2:00 a.m. January 17, 2009

NATIONAL CITY — A National City youth boxing center was back in court this week, continuing to challenge the city's eminent domain authority.

The Community Youth Athletic Center is in a redevelopment zone, and the owners fear the city will use eminent domain to force them to move.

Lawyers for the center are appealing a lower court's ruling that dismissed the center's lawsuit, which claimed the city's use of eminent domain was unconstitutional.

Attorneys for the popular gym argued that a judge's February ruling to throw the case out was based on a technicality and should proceed.

“This case is about real rights that affect real people,” said Dana Berliner, an attorney with the Institute for Justice in Arlington, Va., which is arguing the case. “It shouldn't be decided on a hypertechnical technicality. We hope the court will allow the case to go forward.”

A San Diego appeals court is expected to rule in 90 days whether to uphold San Diego Superior Court Judge William Cannon's decision.

The Community Youth Athletic Center filed suit in late 2007 alleging National City's renewal of its eminent domain authority was unconstitutional.

The lawsuit said city officials did not provide sufficient evidence that the 700 properties in the city's redevelopment area are blighted, a requirement for taking property through eminent domain. The lawyers also claim the city didn't allow enough time for their consultant's blight analysis to be scrutinized by the public.

The case was dismissed because a published legal notice seeking residents interested in joining the lawsuit

contained incorrect deadline dates.

On Tuesday the justices of the 4th District Court of Appeals focused on whether there was a legitimate reason or “good cause” for the error. They didn’t address Berliner’s argument that “the error was so tiny, it substantially complied” with the law.

“I feel optimistic,” Berliner said. “We have always believed that this case would get on track one way or another.”

National City, hoping to revitalize the city, declared about two-thirds of the city blighted and part of a redevelopment zone. Under state law, the city may take blighted land through eminent domain.

The gym sits in the path of a proposed high-rise condominium and retail project on National City Boulevard near Plaza Boulevard, but developer Jim Beauchamp said he plans to build around the gym. Neighboring businesses, however, were forced to sell their properties to make way for the project.

Mayor Ron Morrison said the city has never threatened the gym with eminent domain and has tried to help the owners relocate. But he said the city will defend its right to condemn properties for the good of the community. “We have a lot of older properties and we need the tools to tell people that they should clean them up or redevelop them,” Morrison said. “They shouldn’t leave in our community what they wouldn’t want in their own.”

If the lower court’s ruling is upheld, Berliner said she would take the matter to the state Supreme Court. A reversal would send the case to trial.

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gym = some tax or a little tax

high rise condos = big tax \$ for national city...

where i'm a little confused, why build now? the economy sucks and so does property tax! leave the gym alone, you (national city) won't see any return until after this nasty crappy failed economic black cloud evaporates!

bah!

- tshii January 18, 2009 at 2:16 a.m."...never [Suggest removal](#) 0 of 0 people found this comment useful. threatened the gym with eminent domain and has tried to help the owners..."

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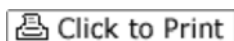


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