

Anything two people know is not a secret

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The dispute is no longer about eminent domain

Ward One councilwoman Amber Ash had a lengthy "editorial" in a recent issue of the daily newspaper. She provided much information but her conclusion was hard to decipher.

In my opinion, there is no argument about the issue of eminent domain being used to confiscate property at the tri-intersection of 19th St., Converse Avenue and Pershing Blvd.

The Wyoming Supreme Court has ruled that the issue of "necessity" is, basically, moot. They have opined that anything an eminent domain powered entity says is a necessity is a necessity. Period.

So, an appeal on the subject of necessity will go nowhere.

The City has the authority to confiscate this property on the basis of their right of condemnation, using eminent domain as their attack.

And it is unlikely that Laramie County voters would side with those who oppose such action. They have shown their true colors when they supported taking the homes of people of modest means to accommodate building a library where those homes stood. There was also silent acquiescence as the City and CRMC confiscated homes of other property owners for an unnecessary viaduct and an unbuildable hospital.

The sympathy, and empathy, will not be for homeowners or commercial property owners. Those opposed to confiscating part of a property owned by a Colorado Springs man could probably meet in a closet.

And, in this case, their opposition would not matter. The City, under Wyoming statute, has the absolute right to displace people (the houses along Pershing that were purchased and demolished already) and to "take" land and buildings in the interest of "growth" or for any other purpose they call "necessary." So, opponents of this particular action could join with the faux "Occupy" group in Cheyenne and commiserate together in the used book sale room at the aforementioned library.

No, the real dispute here has become what part of the property should the condemnor have to acquire.

The City says, "whatever we want."

The Owner says, "the whole parcel."

The Court says, "we'll decide."

A similar situation arose several years back when the City was going to confiscate only a narrow strip of land along Pershing to accommodate a right turn lane south on Central Avenue. That landowner convinced the City that they would create a very dangerous access and egress to and from his home that sat on the remaining land. City government at the time did not quickly agree but they did over time and bought the entire parcel. It now accommodates the right turn lane, with a pocket park.

A familiar lament from the City about the roundabout land is that they "don't have the money" to purchase the entire parcel. I don't find that in the statutes. The requirement is to pay an equitable amount for the property a condemnor wants to confiscate. Not only when they're flush but when they're broke. If the City doesn't have money to confiscate the property, they shouldn't have demolished the houses they needlessly bought for a project they cannot comfortably fund nor should they have spent the money on design(s) for a roundabout they cannot afford.

Not having the money, of course, is a red herring. The City always has the money. Not to fix downtown or neighborhood streets but to pursue unwise, unnecessary and unmanageable projects that residents oppose.

"Poor mouthing" should be dismissed as a legitimate reason for not doing the right thing by this property owner. So can the argument by the City that "we don't know what we'd do with the land and building if we owned the whole parcel." Find that defense in the statutes for me. I couldn't find a "woe is me" right to confiscate private property.

Contrary to what the City and CRMC

have practiced, use of eminent domain to confiscate private property is not one-sided. Not a unilateral action. Property owners do have rights. Not as many as they did a generation or two back, but some.

My position is that the City must buy the entire parcel, including the former Hollywood Video building. Purchasing less would render the property not quite valueless but with very limited development, sale or lease potential. And, how dare the City now agree to remove any requirement for drainage retention when the City refused to allow the opening of the first video store on that parcel because such detention was not then completed.

What's good the goose is good for the gander. Remember how this same gaggle of goofs wanted to repair or replace the septic system at Prairie View Golf Course after refusing to allow residents to do the same on their properties within the 201 boundaries? They backed off of that stunt but only after the Cheyenne Herald exposed their plan to violate their own "law" - the 201 Agreement.

In truth, the tiny "detention" area on the southside of the Hollywood Video parcel was laughable from the start. It would hold no more than about three bathtubs of water and some dead trees. But the very City that now says the "ditch" is unnecessary made the guy close his well publicized opening until the worthless "pond" was created. Now the rules are different because it would suit their purposes? Kind of like the permitting process for the Extreme Makeover house. Don't try these maneuvers at home, kids - these are professional stunt drivers on a closed course. For television, of course. And for national exposure. Big deal.

We are now to the real dispute.

Unfortunately for all involved, including residents, the matter will be resolved in court. In court by someone who was appointed to his/her seat by elected officials. And the final resolution won't come without an appeal. The City doesn't do well on

appeals. The district court judges favor government but the Supreme Court applies the law and the City almost always loses there.

This dispute will ultimately be about whether the City must purchase the entire parcel or just the part of the east parking lot they covet. And, the Supreme Court will not care whether the aggrieved property owner resides in Colorado or Wyoming. Nor will they care what religion the owner is - as has the district court.

The City can argue, as Ms. Ash has opined, that the property will actually increase in value with less parking. That is an argument wherein the City will have to argue against its own rules. In other words, to be successful, they will have to admit that their rules requiring a certain number of parking spaces based on size of the building the parking accommodates, is exaggerated. They will have to argue that they have no true bases for requiring a specified number of parking spaces, that businesses can do even better with fewer. It will be worth the price of admission to watch those oral arguments before the Supreme Court.

And the fact that Safeway will have a bigger, nicer, new grocery store diagonally across the intersection does not necessarily mean property the City wants to leave the owner with will become more valuable. It might. Then again, it might not. Amber can ask Jimmy Valdez if his property across from the southside Safeway has increased in value. It hasn't. In fact, his tenant has been trying to move for several years but cannot complete his own building further south on So. Greeley Hwy. No council member really understands retailing or real estate development. Often, the worst place to locate a store is in the shadow of a very popular store (see the "strip" shopping center in front of Target). Also consider that the "pad" in front of the south Safeway cannot be sold, nor the multiple pads in front of Lowe's, Kohl's, etc. Being near doesn't always mean being good. Only retailers and/or site selectors fully understand the concept. Not elected officials.

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