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Court Bars New York's Takeover of Land for Columbia Campus

By CHARLES V. BAGLI

A New York appeals court ruled Thursday that the state could not use eminent domain on behalf of Columbia University to obtain parts of a 17-acre site in Upper Manhattan, setting back plans for a satellite campus at a time of discord over government power to acquire property.

In a 3-to-2 decision, a panel of the Appellate Division of State Supreme Court in Manhattan annulled the state's 2008 decision to take property for the expansion project, saying that its condemnation procedure was unconstitutional.

The majority opinion was scathing in its appraisal of how the "scheme was hatched," using terms like "sophistry" and "idiocy" in describing how the state went about declaring the neighborhood blighted, the main prerequisite for eminent domain.

The $6.3 billion expansion plan is not dead; an appeal has been promised, and Columbia still controls most of the land. But at a time when the government's use of eminent domain on behalf of private interests has become increasingly controversial, the ruling was a boon for opponents.

"I feel unbelievable," said Nicholas Sprayregen, the owner of several self-storage warehouses in the Manhattanville expansion area and one of two property owners who have refused to sell to the university. "I was always cautiously optimistic. But I was aware we were going against 50 years of unfair cases against property owners."

A spokesman for Columbia, David M. Stone, referred all questions to state officials.

Warner Johnston, a spokesman for the Empire State Development Corporation, the agency that approved the

use of eminent domain, called the decision “wrong and inconsistent with established law, as consistently articulated by the New York State Court of Appeals, most recently with respect to E.S.D.C.’s Atlantic Yards project.” He added, “E.S.D.C. intends to appeal this decision.”

The ruling comes less than two weeks after the Court of Appeals, the state’s highest court, ruled 6 to 1 that the state could exercise eminent domain in taking businesses, public property and private homes on behalf of a Brooklyn developer who planned a 22-acre residential development and a basketball arena.

Proponents of Columbia’s plan expressed optimism that Thursday’s decision would be overturned by the Court of Appeals. But Norman Siegel, a lawyer for the holdout owners, called the ruling a “major victory” in a state that has been deferential to its power to take private property.

“The decision sets forth a road map for how private property owners in New York and throughout America can fight back when government tries to seize your property in the name of eminent domain,” he said.

Columbia embarked in 2003 on its first major expansion in 75 years, saying it had outgrown its Morningside Heights campus. It planned to replace the low-scale industrial buildings north of 125th Street, in the Manhattanville area, with school buildings, laboratories, restaurants and tree-lined streets.

The court’s decision, if it is upheld, is not fatal to the plan. Columbia already owns or controls 61 of 67 buildings in the 17-acre project area. Presumably, it can build around the holdout owners, or come to agreement with them. But the state and the university have sought the entire site.

Mr. Sprayregen said he never opposed the plan. “The research and education they will perform are very beneficial,” he said. “The fact remains that even if they don’t get the last 5 percent, they can still go ahead and build their campus.”

Amrik Singh, who manages two gas stations involved in the case, said: “I want to thank God and the judges who gave us the decision. We were scared. We were all worried about our jobs.”

Mr. Sprayregen and the family that owns the stations challenged the process the state used in finding that the neighborhood was blighted.

Writing for the majority, Justice James M. Catterson said there was a conflict of interest when the state hired the same real estate consultant, AKRF, that Columbia had hired to make the determination of blight. “We questioned AKRF’s ability to provide ‘objective advice’ to the E.S.D.C., particularly with respect to its preparation of the blight study,” Justice Catterson wrote.

The blight designation, the court said, was “mere sophistry” about a neighborhood that was already undergoing a renaissance. The state’s development corporation committed to rezoning long before the study, “not for the goal of general economic development or to remediate an area that was blighted before Columbia acquired over 50 percent of the property, but rather solely for the expansion itself.”

“Even a cursory examination of the study reveals the idiocy of considering things like unpainted block walls or loose awning supports as evidence of a blighted neighborhood,” Justice Catterson wrote.

A spokesman for the firm said in response to the court’s ruling: “As a firm of planners and analysts, AKRF’s responsibility is the collection and assessment of data in an objective and thorough manner. Our analyses help inform a public decision-making process. They are not advocacy documents.”

The court’s opinion also drew a distinction between the circumstances in Manhattanville and New London, Conn., the subject of a United States Supreme Court decision in 2005. In that case, the court upheld the taking of land, in part, because the city had devised a wide-ranging downtown revitalization plan.

In New York, the Appellate Division said the state and city development agencies “were compelled to engineer a public purpose for a quintessentially private development: eradication of blight,” after “having committed to allow Columbia to annex Manhattanville.”

The court found no civic purpose to this use of eminent domain and criticized state officials for arbitrarily closing the administrative record from further comment by opponents and withholding relevant public documents from the property owners.

In the dissent, Justice Peter Tom wrote that the expansion of an educational institution qualified as a public purpose. He wrote that the property owners’ arguments over blight constituted merely a “difference of opinion”

that requires the court to defer to the state's decision to use eminent domain. Justice Tom wrote that the Court of Appeals had used similar reasoning in the Atlantic Yards case.

Despite the recent Atlantic Yards ruling, the decision Thursday gave hope to property owners battling the use of eminent domain in Brooklyn and Queens. "We feel like we just got thrown a lifeline," said Matthew Brinckerhoff, a lawyer for the property owners at Atlantic Yards.

A year ago, the City Council authorized the use of eminent domain to take a 62-acre area of mostly salvage yards and auto repair shops known as Willets Point in Queens. "The tide may be turning on the use of eminent domain for private purposes," said Jake Bono, a spokesman for Willets Point United, a group of property owners opposed to condemnation.

Lisa W. Foderaro contributed reporting.