








Filed  1

Threatened     40

Total 41

**Known Development
Projects w/Private
Benefit Condemnations***

  2

State Record of Condemnations Filed, for All Purposes:† 1,692

Legend  =1  =10  =1

OVERVIEW

With the exception of one semi-private condemnation in 1999, Arkansas seems to have stayed away from condemnations that benefit private parties. City officials in Little Rock hinted they would condemn several homes for a private development project, but when owners refused to sell, the City wisely chose not to move forward with eminent domain. Arkansas courts report a somewhat high number of condemnations given the size of the state, nearly 1,700 in five years, but these include condemnations for roads and public utilities. Overall, then, Arkansas has largely respected the rights of its citizens and refrained from condemning property for private use.

*These numbers were compiled from news sources. Many cases go unreported, and news reports often do not specify the number of properties against which condemnations were filed or threatened.

†Arkansas Administrative Office of the Court (includes condemnations for traditional public uses).

PRIVATE USE CONDEMNATIONS

Little Rock

In July 1999, Little Rock, Arkansas condemned a warehouse building owned by Eugene Pfeifer for the new William J. Clinton Presidential Library. In a rather complicated transaction, Little Rock will pay for the property using revenue bonds.²¹ The library itself will be built using private donations raised by a nonprofit group, the William J. Clinton Presidential Foundation. The Foundation will own the building, but the federal government will operate the library.²²

Pfeifer challenged the condemnation, arguing that the condemnation of his property lacked a public purpose, because the City's plan clearly showed that the private foundation would own the library. He also argued that it was not necessary to condemn his property, as the plan did not specify how large the library would be or where it would be located. After an initial favorable lower court ruling²³ and several years of litigation, the Arkansas Supreme Court ruled on November 1, 2001 that the public library would serve a valid public purpose.²⁴

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Little Rock

A developer is planning a 10-acre upscale retail center in the midtown section of Little Rock. Since the development was first proposed in 1999, the project has ballooned to five times its original size, and now comprises 40 lots that had been controlled by 19 different owners. Most of the owners sold their properties, but four homeowners refuse to negotiate, because they don't want to move out of their homes. The midtown retail project has the backing of Little Rock City leaders, and the City Manager sent letters to the owners stating that the City would use "any and all powers at its disposal" to make the project move forward. Lou Schickel, a rival local developer who strongly believes that the City should keep to itself and leave all development up to the private sector, was fed up with the City's thinly veiled threats to use eminent domain for the private benefit of the midtown developer, so in October 2001 he purchased one of the homes in the middle of the center's proposed site. He and the other homeowners vowed to fight any attempt by the City to take their homes through eminent domain. In the meantime, a smiling Lou Schickel said of his new property, "It's not a bad rental house investment."

Almost two years later, no condemnations have occurred. Schickel signed a tenant to a long-term lease for his home, and the City has not tried to make good on its threats to use eminent domain.²⁵ This is a great example of how a little resolve can go a long way in keeping money-hungry government bureaucrats at bay. So often the forces behind private use eminent domain know that even though their actions trample on the rights of property owners, the government will win simply because the owners don't have the will or the resources to put up a fight.

²¹ Elisa Crouch, "LR Wants Landowner's Suit Killed; City Says 'Antipathy' to Clinton Motivates Eminent Domain Challenge," *Arkansas Democrat-Gazette*, Feb. 9, 2000, at B2.

²² Danny Shameer, "Landowners Get Outline of Library Plans," *Arkansas Democrat-Gazette*, Dec. 13, 1997, at B1.

²³ Elisa Crouch, "Pfeifer Lawsuit Over Library Site Must Go to Trial," *Arkansas Democrat-Gazette*, May 5, 2000, at B1.

²⁴ *Pfeifer v. City of Little Rock*, 57 S.W. 3d 714, 723-27 (Ark. 2001); see also Elisa Crouch, "Justices Let LR Take Land for Clinton Library," *Arkansas Democrat-Gazette*, Nov. 2, 2001, at A1.

²⁵ C.S. Murphy, "Midtown Retail Vision Grows—Around Foe; Critic Buys House in Middle of LR Site," *Arkansas Democrat-Gazette*, Sept. 19, 2002, at A1.

