

Missouri Municipal Attorneys' Association  
2009 Annual Conference

2010 “CPR”

CONSTITUTIONAL INITIATIVE  
“EMINENT DOMAIN” PETITIONS

***ROUND THREE !!!***



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# September 2008:

# WE WON!

**News  Tribune**

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## **Missouri group seeking eminent domain limits drops suit**

*By CHRIS BLANK  
Associated Press Writer*

A group proposing a pair of constitutional amendments restricting eminent domain said Thursday that it dropped a lawsuit seeking to get the measures on the November ballot - but plans to try again in 2010.

Missouri Citizens for Property Rights sued last month after the secretary of state's office concluded it had collected too few signatures to place the amendments before voters. Ron Calzone, the group's leader, said it dropped the lawsuit because it became obvious there was no way to get enough signatures.

Calzone said he will try to get similar measures on the ballot for the next election cycle in 2010.

This year's proposals sought to bar the use of eminent domain by nongovernment entities and for private use. The two separate initiative petitions both fell several thousand signatures short of the 28,787 signatures needed in the 2nd Congressional District, which covers Lincoln and parts of St. Charles and St. Louis counties.

## *Or Did We???*

**“We've been asked if we will try again. How can we stop now? We've been working on this for three long years . . . . We can not stop! Watch for us next summer.”**

**“...we also learned a lot from this time around.”**

**- Ron Calzone, Chairman  
Missouri Citizens for Property  
Rights (“CPR”)**

# *As Promised...*

## **Art. VI, 21 –**

- **Approved for circulation: Dec. 15, 2008**
- **Ballot Title certified: Jan. 6, 2009**

## **Art. I, §§ 26, 28 –**

- **Approved for circulation: Dec. 30, 2008**
- **Ballot Title certified: July 2, 2009**

**Effective: November 3, 2010**

# *Good (not Great) News:*

**Compared to 2008...**

- **Signatures : May 2, 2010**
- **Election: November 2, 2010**

*More Time*

**BUT, this cuts both ways . . .**

# *Good (not Great) News:*

**2010 Art. I Initiative** *leaves out:*

- “right to use, sale or enjoyment of private property”
- taken “directly or indirectly”

*Reduces risk to local regulation???*

# ***Bad News - Return of the Worst of 2008***

Art. I, §§ 26, 28 –

- **Court must find:** “necessary for a public use” and “just compensation rendered”
- **Property undisturbed until** “final legal determination of the legitimacy of the taking”
- **Value: appraisal methods/evidence typical to the “ordinary course of business” are “relevant and admissible”**

# *Bad News - Return of the Worst of 2008*

## Art. VI, § 21 –

- **Eliminates Redevelopment**
- **Substitutes abatement of “public nuisances, as defined by the Common Law” *Only if...***
  - **First determined to be present by a Court**  
*And...*
  - **Not “fully abated...within a reasonable time after final judgment”**

# *Results?*

## **Impairment/Elimination of:**

- ***Zoning:*** no limits on adult entertainment, feedlots, junkyards, landfills
- ***Nuisance:*** dangerous buildings, weeds, debris, junked cars
- ***Economic Development and Redevelopment***

# *Why Here/Why State-wide?*

## **Missouri -- “Worst State” for Eminent Domain Abuses???**

- ✓ Missouri has more provisions restricting eminent domain than any other state
- ✓ Missouri allows recovery of pre-condemnation damages
- ✓ Since 2007 only eight reported cases dealing with eminent domain in blighted areas State-wide
- ✓ Last 2 years: Zero eminent domain actions filed in over 75% of Missouri counties

# *Justification?*

Does this justify a bi-annual statewide push for constitutional amendments?

# *Justification?*

What's *really* going on?

- “Grassroots” or just “Astroturf?”
- Who benefits?
  - Missouri citizens or Special Interests?
    - Property rights circa 1900
    - Slumlords’ Bill of Rights

# *What's Being Done About It?*

- **Legal Challenges**

- MML/SOS Appeal of Cole County Litigation (07.08.09)
- Challenges to Signatures/Circulators

- **MML & Partners Public Information Campaign**

- Summary of Eminent Domain Petitions
- Mailing Campaign to Municipal Officials
- Informational Materials on [www.mocities.com](http://www.mocities.com)

# *Our Own “Grassroots”*

- ❖ Legal challenges work only so long
- ❖ Organize our own “grassroots” campaign
- ❖ Educate residents about effects on property rights and uses before Petitions circulate

***KEEP IT LOCAL!***

# *What You Can Do About It!*

- ✓ *Help Educate* residents/property owners
- ✓ *Speak Out* in editorials, op-eds, letters to editors
- ✓ *Challenge* “facts” spread by CPR and other self-styled “reformers”
- ✓ *Spread the Word* about dangers of these “reforms”

# *To Help You...*

- *Share the Talking Points outline*
- *Consider the Eminent Domain Policy template*
  - Eminent Domain should remain a local response to local activity
  - Remedial actions should be political, *not* judicial

*When?*

**Take Action NOW!!!**

*Like 2008,*

**2010 will be here**

**sooner than you think . . .**



# *Questions and Answers*

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