NEW YORK The Sun
NEW YORK

Owners Ousted From Times Site Awaiting Payout

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January 9, 2006

More than three years after the New York Times and the state of New York used the power of eminent domain to clear the way for a 52-story new headquarters for the newspaper, nearly all the property owners and more than half the tenants who were displaced have not settled with the state over the amount of compensation they are due.

Lawyers representing displaced tenants and owners and state officials say that the recent designation of two additional judges in the New York Supreme Court to review condemnation cases will likely speed up the processing of the remaining claims. The state pays 9% interest per year on the difference between its offer and the court's final judgment.

Nevertheless, in a series of interviews with The New York Sun, the displaced tenants and owners said their experience over the last three and a half years serves as a warning to those who may be ousted by condemnation in the Atlantic Yards project in Brooklyn, the planned expansion of Columbia University in Harlem, or other projects that might now surface as a reaction to last year's U.S. Supreme Court ruling in Kelo v. New London, which allows a city to invoke eminent domain for the sake of private economic development.

In 2002, the Empire State Development Corporation cited "urban blight" to condemn 10 properties and oust about 55 small businesses on 8th Avenue between 40th and 41st streets. The street contained a mix of retail stores, architectural and engineering offices, a parking lot, a video store, and at least two adult stores.

The stores will be replaced with about 1.4 million square feet of office space to house both the Times and other tenants in a 748-foot tower, designed by architect Renzo Piano and developed by Forest City Ratner.

Citing increased tax revenues and more jobs, the city gave the Times about $26 million in tax breaks. The Times and Forest City Ratner are responsible for about $85 million to acquire the site. Should the owners and tenants prevail in court and the acquisition costs prove to be higher, the city and state would be responsible for the overrun.

A locksmith who was displaced after 21 years in the same location, Taghi "Teddy" Pazooki, said that after his forced move to a less-lucrative storefront and the divorce that followed, he now spends his nights sleeping on the floor of his shop.

"It was a very good business. I was making a living - enough to buy a house. The people were coming from Port Authority every morning and afternoon," Mr. Pazooki said. "It hurt us a lot. I don't know now when I am going to go out of business."

Mr. Pazooki, an Iranian immigrant with a masters degree from New York University, said that his relocation cost a minimum of $60,000. But after seven months of holding out, he settled for $14,000 from the state, and after lawyer's fees and taxes was left with $4,000. He says his new location on West 39th Street costs him twice as much with less than half the revenue.

The owner of the largest property that was taken, Sidney Orbach, is awaiting a court date to resolve his outstanding claim. The state offered him $8.3 million for his property, a 16-story commercial building, which he had appraised for $35 million. Mr. Orbach challenged the condemnation in court and lost. Now he is just trying to recover some value from what he says was his major source of income.

"You are supposed to be fairly compensated," Mr. Orbach said. "If things were done fairly, the process would be reversed. You don't condemn and then talk about compensation. You should compensate and then condemn."

Building owner Maurice Laboz said he earned more than $1.1 million in rent a year from his former building. Before he received word of the condemnation, Mr. Laboz said he turned down an $8 million offer for the building. Later, the state offered him $1.8 million. He says he had the building independently appraised twice at $11 million.

As he awaits a court date, Mr. Laboz has received the $1.8 million from the state, which paid off the remaining $1.3 million of his mortgage and left him with $300,000.

After nearly 50 years in the same location, a hat store, Arnold Hatters, was forced to move to a new location four blocks to the south. The move has caused a 40% drop in business, according to co-owner Mark Rubin, who runs the family business with his father, Arnold Rubin. The Rubins have cut staff hours and keep less inventory on site, and Mark Rubin said they often "rely on the patience of their suppliers" to pay the bills.

"I don't have a major transit center across the street anymore. It is just four blocks away, but in New York, that's a world away," Mark Rubin said.

The Rubins settled with the state, which Mark Rubin said helped offset most of their relocation and construction costs. But the settlement has done little to compensate for the loss of business. He said taxes and lawyer's fees ate up about 50% of their settlement.

"There is a lot of bitterness and unhappiness about it. But there is nothing we can do except to show up for work everyday," Mr. Rubin said.

The Sussex House, a dormitory that housed students from programs around the city, is one property owner that settled with the state, but is now one of several businesses that has been unable to recover.

A former vice president of that company, Thomas Alessandrello, said that the real estate market in the city makes it prohibitively expensive to start a similar venture elsewhere.

"It was a great business. We were always 90 percent occupied," Mr. Alessandrello said. "But it's hard to buy in Midtown. The economics has made it difficult to duplicate what we had."

A wholesaler and retailer of textiles, B&J Fabrics, had been located at its former location since the 1950s before moving to a Seventh Avenue location. One of the owners, Mel Cohen, says their forced move was a blessing in disguise and revenues have increased by about 25% in the business's new location.

"We are one of the fortunate ones," Mr. Cohen said.

Still, Mr. Cohen says that they were compensated roughly $125,000 for a move and renovations to the new store that cost about $500,000. He is awaiting the outcome of an arbitration hearing in the next few months.

The lawyer representing most of the property owners and the tenants with outstanding claims, Michael Rikon, said the state commonly low balls condemned owners and tenants because judges will often decide on a settlement figure that falls between the state's assessment and the owners' or tenants' assessment.

"This is as low ball as it gets, and there are a horde of lawyers feeding off these proceedings," Mr. Rikon said.

The attorney says the total independent appraisals of the remaining cases he represents amount to $129 million, and the state's appraisals add up to $45 million.

A spokeswoman for the Empire State Development Corporation, Deborah Wetzel, said the state "promptly completed independent appraisals of the properties as required by law."

Ms. Wetzel said the state "has paid to each claimant the value of its property" as determined by the state's independent appraisals.

Mr. Rikon said that in all the condemnation cases he has worked on in the 42nd Street corridor, when claims go before a judge, the court has always awarded more than the state initially offered.

"Compensation is not easily obtained. It's a hard fight to get the proper amount of money. It's a real struggle," Mr. Rikon said.

The Times has distanced itself from the deal, saying that it was not involved in negotiations with owners or tenants.