



**Remarks of Stuart Blaugrund
El Paso City Council
December 19, 2006**

I am a native El Pasoan and a product of El Paso's public schools, including Mesita Elementary and El Paso High. My father was a Downtown merchant for almost 40 years, and I have not forgotten my roots. It is my honor to represent the Land Grab Opponents.

In establishing the Tax Increment Reinvestment Zone (TIRZ), the City of El Paso puts the final touches on what is called "a formidable force in redevelopment." And indeed it is. By creating the TIRZ today, City Council designates as blighted approximately 130 acres of prime Downtown real estate. This blight determination – which is so broad that it could describe practically *any* neighborhood in El Paso – is critical. In the words of Bill Sanders, the most prominent advocate of Downtown redevelopment: "The TIRZ gives you the right to take [Downtown properties]" to implement his redevelopment plans. These expanded eminent domain powers are not readily available to the city unless it creates this TIF district.

Speaking to El Paso Inc. when the Paso del Norte Group unveiled its plans, Mr. Sanders laid out the quandary Downtown property owners face. Your actions today are intentionally designed to force them to make one of three choices:

- Exchange their property for shares in a Real Estate Investment Trust ("REIT") which has been established to gobble up their properties,

- Sell out to the REIT, or
- Face condemnation proceedings to take their properties by force.

Not one of those choices allows property owners to remain where they are right now – even though they have stayed Downtown for years while others have fled.

Many people, including the mayor, say they don't understand why the El Paso 2015 Plan (“Plan”) is so controversial. Eminent domain, they say, will be used as a last resort. This claim makes absolutely no sense. Actually condemning private property may be the last thing you do, but your ability to do so is so ominous that the threat of eminent domain will permeate all so-called "negotiations" between the REIT and current owners of Downtown properties.

Consider some of the findings contained in the City's own records. For example, the market research study performed by Oster Group. The report recommends the building of a fashion outlet mall in the TIRZ similar to the one operating near San Diego. Oster Group explains how the threat of eminent domain aided the developer in consolidating the land needed to build the San Diego mall in these words:

Las Americas Fashion Outlet Mall in San Diego -- Development Story

To obtain control of this site, 31 individual land parcels were assembled, which required a total of 50 signatures. The land consisted primarily of under-utilized non-residential properties. The assembly process received early support from the City of San Diego, which declared the site a "redevelopment zone." Marasco thereby acquired the power of eminent domain, which was never exercised, although its threat was helpful.

Likewise, in establishing the TIRZ and designating as blighted the entire area proposed for redevelopment, the power of eminent domain will be exploited just like it was in San Diego. Without further assurances from the City, let's not pretend that any negotiations to acquire properties in the redevelopment zone

will be fair. It is impossible to have a voluntary sale between a willing buyer and a willing seller when plan proponents like Bill Sanders publicly boast that the TIRZ enables them to ultimately get what they want in these words:

“Unfortunately, it may happen that at some point we've got to say, 'Sorry we weren't able to work something out. Now the TIRZ is going to begin the process of taking your property...' ”

Perhaps the most intriguing aspect of this matter is that you are moving forward with this plan without the participation of any other taxing authority, and while the Texas Legislature is preparing to strengthen protections against eminent domain abuse. The City Council's refusal to limit by ordinance the circumstances under which eminent domain will be used to implement this Plan – especially after the mayor raised the community's expectations by promising to propose such an ordinance – exacerbates tensions, fear and distrust among Downtown merchants and property owners. The reason is simple. The Cook administration is perceived as condoning the predatory acquisition of Downtown properties under economic duress.

This blight analysis is nothing more than an attempted end-run around state law banning the forced taking of private property for economic development purposes. Even your own study shows there is vibrant economic activity taking place within this 'blighted' area. For instance, the study cites 1,055 businesses in the 79901 zip code employing 12,485 people with an annual payroll of over \$325 million. The sales for these businesses totaled over \$340 million dollars in 2005—\$120 million of which were retail sales.

So when legislators return to Austin in January to determine what additional measures need to be enacted, they'll have a new poster child for eminent domain abuse right here in Texas.

El Paso all by itself may provide the example property rights advocates in the Legislature need to pass better eminent domain protections – while at the same time wasting political capital that would be better spent on other economic development projects for the City.

Don't misinterpret our position. The Land Grab Opponents support revitalizing Downtown. In fact, my clients risked their finances, built their businesses from the ground up, and staked their livelihoods on Downtown long before any of you were elected to public office. We recognize that El Paso needs more economic opportunities and the private sector must provide the foundation to expand the local economy.

The point is there are many ways in which the City of El Paso can work with developers to improve Downtown's aesthetics, attract private enterprise and even facilitate infrastructure improvements to generate taxes and jobs – none of which require forcibly transferring private property from one person to another. Development can occur in El Paso – as it does across the country, every day – without government force. But the moment the City shows its willingness to use its power of eminent domain to grab properties for someone else's private gain, no one's home or business will be safe.

But this fight really isn't about property; it's about people – the people who see El Paso as the best place to live, work and raise a family. Whatever you do, think about the people this decision affects. By establishing this TIRZ, you'll not just destroy bricks and mortar, but hardworking people too – and the idea that El Paso values the fundamental right of its residents to keep what they've worked hard to own.