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Here's How East Brunswick Overcame Property Owners' Opposition to Route 18 Redevelopment Project

"The court found that the township followed the proper procedural requirements, the record contained substantial evidence to support the township's designation and there was simply no basis to invalidate the redevelopment designation," said Michael Bruno of Giordano, Halleran & Ciesla, representing redeveloper EB Development Urban Renewal.

By Charles Toutant | March 01, 2022



Facing condemnation for East Brunswick redevelopment project: Gulf station (top), 229 Route 18, and office building (bottom), 223 Route 18. Credit: Google

A New Jersey judge has rejected a challenge by property owners to East Brunswick's designation of 88 acres along the Route 18 business corridor as a condemnation redevelopment area.

The ruling gives a green light to the town's efforts to bring a new, mixed-use development to an area that was once thriving but now is marked by vacant and obsolete properties and a high rate of police activity.

Rejecting claims by a group of property owners that the designation as a condemnation redevelopment area was arbitrary, capricious and unreasonable, Middlesex County Superior Court Judge Thomas Daniel McCloskey said that East Brunswick presented sufficient evidence to show the record supported the properties' designation.

McCloskey said East Brunswick "complied with the procedural and substantive requirements of the Redevelopment Law." Substantial evidence was presented to the township council that revitalization of the Route 18 corridor was only possible through the assemblage of properties along the highway.

"Put simply, this was not a case in which the council sought to rehabilitate a problem not in fact broken, one that continued to deteriorate and digress during the course of this litigation," McCloskey said.



Judge Thomas Daniel McCloskey.
Courtesy photo

Several property owners hit East Brunswick with suits after it launched the redevelopment project. The township conducted a noncondemnation redevelopment study of the Route 18 corridor in 2014, and then conducted a condemnation redevelopment study in 2017. An entity called EB Development Urban Renewal, which was designated by the township as the redeveloper of the project, intervened in the litigation.

McCloskey's ruling, issued on Feb. 9, is believed to be the first time a court has reviewed the statutory requirements when there is a change in a redevelopment designation from a noncondemnation to a condemnation area, according to Michael Bruno of Giordano, Halleran Ciesla in Red Bank, New Jersey, who represents EB Development Urban Renewal. The firm's Matthew Fiorivanti handled the brief.



Michael Bruno of Giordano, Halleran & Ciesla. Courtesy photo

Changing the scope of the project from noncondemnation to condemnation required the township to meet a higher set of standards to justify its action, said Bruno. The town opted to conduct the project with condemnation as an option because some property owners appeared unwilling to agree to the sale of their properties to the developer, he said.

"The court found that the township followed the proper procedural requirements, the record contained substantial evidence to support the township's designation and there was simply no basis to invalidate the redevelopment designation," Bruno said.

"The redevelopment will be a transformative project for the Route 18 corridor in East Brunswick and will revitalize this once-vibrant retail area with a new mixed-use approach that has been successful in many other former thriving retail areas of the state," he added.

The properties whose owners challenged the redevelopment project include three active businesses: a gas station and auto repair business, a small office building, and a store selling carpeting, as well as a vacant former Office Depot store. They make up a small portion of the 88-acre redevelopment zone, which also includes two large shopping centers with numerous vacant storefronts.

The property owners who filed suit claimed East Brunswick did not properly apply the blight criteria and the record lacked sufficient evidence to support the town's decisions. They said in court papers that East Brunswick's blight declaration was not based on the statutory criteria, but "some grander vision for this area." They said it is enough that the town officials do not like the current arrangement or use of the properties and that the blight criteria has not been met.

The intervenor-developer contended that a report by the town's planning consultant, Francis Banisch III, showed that the criteria had been met.

McCloskey said New Jersey law holds that municipal actions are presumptively valid, and the designation of a redevelopment area is vested with the presumption of validity. He also cited case law that says "blight determinations are not a piecemeal affair and may encompass properties that do not meet the criteria" as blighted.

The project still is the subject of another lawsuit by a property owner who challenged the town's selection of EB Development Urban Renewal, said Bruno.

The lawyer for the property owner plaintiffs, Daniel O'Hern Jr. of Byrnes, O'Hern & Heugle in Red Bank, did not respond to a request for comment.

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