

Editor: Cynthia S. Paris  
(804) 649-6801  
oped@timesdispatch.com

# Op/Ed

TimesDispatch.com  
Keyword: opinion

## EMINENT DOMAIN

# Once Again, the Little Guy Gets Robbed

**T**his is the thanks you get. When Norfolk's Central Radio Co. first began fixing communications equipment for the U.S. Navy, Americans were still half a decade away from hearing their president describe Dec. 7, 1941, as "a date which will live in infamy."



A. BARTON HINKLE

Through the battles of Coral Sea, Midway, Guadalcanal, Leyte Gulf — and for the next 75 years — Central Radio would help the Navy defend Americans' constitutional rights.

So what is the company's reward? The City of Norfolk and ODU are conspiring to take Central Radio's rights away.

Central Radio sits on 39th Street, as it has for half a century, in the same neighborhood where it's always been. Old Dominion University wants the property for University Village, a swanky retail and residential district. So the Norfolk Redevelopment & Housing Authority has decided to take the property, along with an apartment complex and some vacant lots, through eminent domain. It intends to seize the two-story Central Radio building and hand it over to ODU's real estate foundation. The foundation will then turn the properties over to a developer that will replace them with a grocery store, a drugstore, and a sandwich shop. Because you never can find enough of these near a college campus, can you?

The housing authority offered to buy the property from Central Radio's president, Bob Wilson, for \$700,000, and to pay relocation costs. Sounds generous. But a Vir-

ginia Beach developer who wanted to put a Rite Aid on the site offered \$1 million for the property — 13 years ago. (The developer couldn't get rezoning permission. But by a remarkable coincidence, the city soon designated the area a redevelopment district, slated the properties within it for the wrecking ball, and mapped the Central Radio location for a shopping center.)

**The Fifth Amendment's** taking clause says, "nor shall private property be taken for public use, without just compensation." That's a two-prong test, which means it's not only wrong to take private property for private use — it's also wrong to take private property for public use but to pay less than the property is worth.

Not many government agencies pay much attention to the real meaning of the Fifth Amendment these days. The Supreme Court gave them permission to ignore it five years ago in its infamous *Kelo v. New London* decision. Having already redefined "public use" to include public "purposes," the high court essentially struck the word "public" entirely when it ruled that government could steal property from one private owner and give it to another private owner, as long as it could speculate that it might collect higher taxes as a result.

In the aftermath of *Kelo*, many states passed legislation to protect property owners from such deprivations. But as the Institute for Justice has chronicled, countless property owners have been picked off anyway. In literally hundreds of cases, governments across the country have taken people's property simply because they imagined

someone else might put it to better use.

Often, the dreamed-of developments have not materialized. In fact, last year Pfizer announced it would shut down the research facility that prompted the *Kelo* litigation in the first place. Needless to say, none of the ancillary development ever materialized, either.

Likewise, Roanoke went to great lengths to seize a building owned by Jay and Stephanie Burkholder so it could hand the property over to the deep-pocketed Carilion Clinic. After Roanoke prevailed in court late last year, Carilion said it didn't want the property. No matter: Roanoke officials insist on taking the building anyway.

Virginia also has passed legislation to tighten restrictions on eminent domain abuse. Three years ago the Assembly passed a law prohibiting the use of condemnation for economic development. But the Norfolk/ODU redevelopment was grandfathered for two years. When the deadline passed, Norfolk got an extension until this June 30. Recently, the NRHA moved to condemn the Central Radio property.

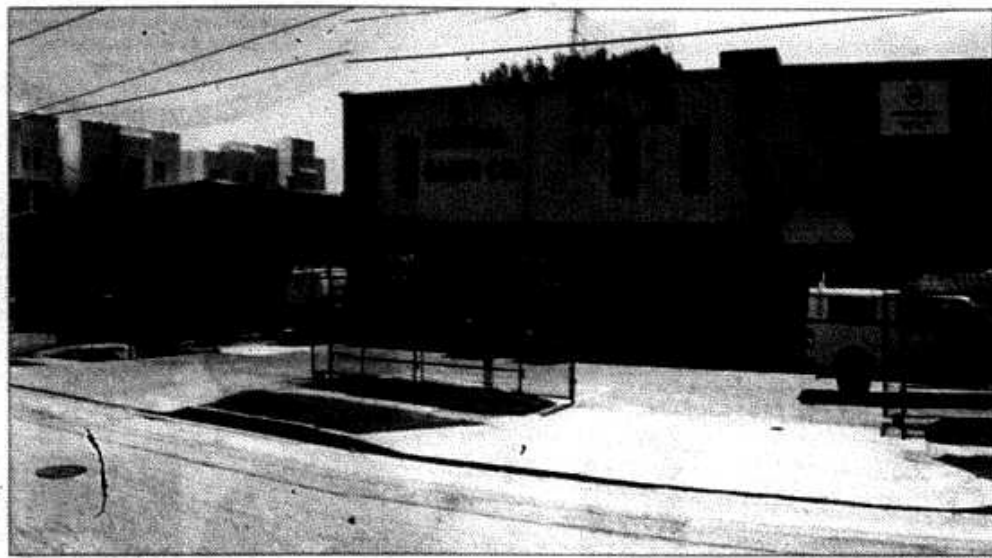
**This year, Virginia** lawmakers introduced resolutions to enshrine in the state Constitution the prohibition on property being taken for "public use" when the primary purpose of the condemnation is private economic development. Unfortun-

nately, the measures didn't make it to the governor's desk. But the Central Radio case demonstrates clearly why they are so badly needed. Lawmakers should introduce them again next session, so that Virginia can — to quote Roosevelt's famous speech — "make very certain that this form of treachery shall never endanger us again."

*If we could read the secret history of our enemies, we should find in each man's life sorrow and suffering enough to disarm all hostility.*

—HENRY WADSWORTH LONGFELLOW

• Contact A. Barton Hinkle at (804) 649-6827 or bhinkle@timesdispatch.com.



CENTRAL RADIO CO.

The Central Radio building in Norfolk is now the subject of an eminent-domain dispute.