

Testimony of Michael Rikon  
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Thank you Senator Perkins for your kind invitation.

Avatar is a fantastic movie, but I wonder if I am the only one who left the theater thinking that it was a story about eminent domain abuse.

Maybe it is because I have been handling condemnation cases for 41 years, or maybe it was Parker Selfridge, the character, who explains why it is necessary to evict the Návi from their home site on Pandora. "This is why we're here, because this little gray rock sells for 20 million a kilo."

Perhaps, it was something Jake Sully said, "they've sent us a message. . . that they can take whatever they want. Well, we will send them a message. That this . . . this is our land."

To me and, unfortunately, I have seen this time and time again, this is how eminent domain works in New York.

If we substitute Mayor Bloomberg, or Bruce Ratner, or Columbia University for Parker Selfridge and substitute Daniel Goldstein, Jerry Antonocci, Bart Didden, or Nick Sprayregan for Jake Sully, one can understand the analogy.

Too bad the New York Times can't see it. In an editorial, it called the decision of the Appellate Division, First Department in the Columbia

University proposed condemnation, misguided. The newspaper called the opinion “a weakly reasoned decision” which was “completely out of step with eminent domain law.”

I read the editorial several times and could not find any disclosure that the New York Times owns half of the building with Forest City Ratner<sup>1</sup> where its headquarters is located on 8<sup>th</sup> Avenue between West 40<sup>th</sup> and West 41<sup>st</sup> Street. It is outrageous that the newspaper that boasts it publishes, “all the news that is fit to print” would be so dishonest and biased in favor of taking private property to give to another owner and fail to disclose such a conflict.

*Kaur v. New York State Urban Development Corporation*, the December 3, 2009 decision held that “the record overwhelmingly establishes that the true beneficiary of the scheme to redevelop Manhattanville is not the community that is supposedly blighted, but rather Columbia University, a private elite education institution. These remarkably astonishing conflicts with *Kelo* (*Kelo v. City of New London*) on virtually every level cannot be ignored, and render the taking in this case unconstitutional.”

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<sup>1</sup> The developer of the Atlantic Yards project.

This is the same New York State Urban Development Corporation that condemned and evicted the private owners for the New York Times headquarters.

I also found it strange that a newspaper would fail to comment on the “evidence raising questions of bad faith and pretext” regarding the New York State Urban Development Corporation’s failure to comply with the Freedom of Information Law. Can you imagine what the Times would do if one of its F.O.I.L. requests were subject to bad faith and pretext?

The abuse of the power of eminent domain must stop. The power of eminent domain is the most awesome grant of power under the law of the land.

The New York State legislature must curb this power and should start with the creation of an eminent domain commission to study and revise the law, something recommended long ago by a blue-ribbon committee created by the New York State Bar Association.

Blight must be defined and not left to an abstract definition to be filled in by a hired gun.

Public use must be re-defined to mean what the United States and New York State constitutions intended.

The legislature must join the 43 other states that already curbed *Kelo v. City of New London*.

Public authorities and public benefit corporations must be accountable for their decisions to exercise the power of eminent domain.

The Eminent Domain Procedure Law adopted in 1977, requires drastic revision and should include the right to a jury trial, something that exists in the other 49 states.

Thank you.