



MICHIGAN CITY

The place is here, the time is now!

Department of Redevelopment – John W. Pugh – Phone: 219.873.1419 – Fax: 219.873.1580 – e-mail: johnp@emichigancity.com

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The Michigan City Redevelopment Commission (MCRC) agrees that it is indeed unfortunate that the process of eminent domain is being used to resolve the issue of the acquisition of the Weber Sign Co. property. It is understandable that the process elicits emotions that can lead to different recollections and interpretations of what actually occurred. I would like to take this opportunity to present our position as to what has happened.

Eminent Domain is the taking of land by a unit of local government for its public use and benefit of the citizens. The MCRC is required to comply with Indiana law in all respects. These statutes set forth the parameters and limited circumstances under which the MCRC may pursue eminent domain. The MCRC was moved to acquire the parcels in order to allow for the construction of the Lafayette-Barker Storm Sewer System and to eliminate the blight and the environmental threat posed to Trail Creek by the pollution on real estate owned by the Webers and other adjacent property owners. This was affirmed at MCRC meeting of April 10, 2006 when a hearing was held to amend the original plan for redevelopment.

This action was taken, in part, due to a lack of response to any overtures the MCRC made to the Webers subsequent to the initial offer made in 2002. As a point of clarification, the offer was not \$1 for the property and \$175,000 for relocation costs as stated in the News Dispatch editorial of January 24, 2008. It was \$175,000 for the land and building and was based on a professional appraisal. Negotiation of relocation costs never took place as the offer was rejected without a counter offer being submitted.

After the MCRC meeting of April 10, 2006 where it was reaffirmed that the MCRC had no objections to paying relocation costs and the Webers' attorney, Mr. Kuchel, emphatically told the commission to "make an offer", a negotiating session took place on April 19, 2006 with Mr. Kuchel representing another client and the Webers. The cost of the environmental cleanup was a point of contention and the meeting ended with the understanding that he would explore the costs of an alternative cleanup process and get back to us. Although Mr. Kuchel was contacted repeatedly a response was never received.

In fact the only response was a court challenge to the MCRC decision at its April 10, 2006 meeting to pursue the acquisition of the Weber property. This action, while well within their rights, delayed the efforts of the MCRC to provide much needed sewer relief to hundreds of homes to be served by the Lafayette-Barker Storm Sewer System

Project and our efforts to remediate polluted sites and improve the water quality of Trail Creek and ultimately Lake Michigan.

Attempts to contact the Webers, including another offer, prior to the court hearing of October 31 and November 1, 2007 did not elicit a response until a letter from Mr. Kuchel dated October 24, 2007 was received requesting \$550,000 for the property plus relocation costs plus up to \$100,000 of any grant received to remediate the contamination. This was supported by Mrs. Weber's testimony at the court hearing that she thought the property was worth \$750,000 and that they bore no responsibility for the environmental cleanup.

That's \$750,000 for less than a half acre parcel that is not adjacent to the creek, located in a blighted area, that has contamination estimated to cost \$500,000+ to cleanup and is surrounded by other contaminated sites.

The outcome of the court hearing was that Judge Baldoni determined that the April 10, 2006 decision of the MCRC to amend the redevelopment plan and place the Weber Sign property on the "Acquisition List" for \$1 was fair, reasonable and appropriate under the circumstances.

Another area that needs to be clarified is the contamination at the Weber site. It is unfortunate that when the Webers purchased this property in a heavily industrialized area they didn't take the environmental ramifications into account. Their position that much of the contamination was there prior to their occupancy probably has some basis. Their contention that they did not contribute to the contamination and that it is minimal does not. Initial testing done (by certified laboratories) with the Webers consent conclusively established the presence of contaminants consistent with what could result from ongoing operations. In 2004 the US EPA denied the grant application of the MCRC for remediation of the Weber site because the owners have been identified as a potential responsible party. The cleanup cost estimates in excess of \$500,000 indicate that this is more than a minimal problem. Our requests to do additional analysis on the site to clarify the situation have been denied.

The law states that any liability for contamination is the responsibility of the current landowner regardless of its origin. The MCRC has offered to assist the landowners in this situation pursue remedies by filing claims against the previous owners' insurance companies. We have not been contacted in this regard.

In the past 6 years the MCRC has acquired approximately 15 parcels in the redevelopment area. We strive to act in a professional manner and negotiate in good faith. During this period the Webers and the Sobkowiaks are the only parties to raise the issue of just compensation.

The MCRC has a fiscal responsibility to the taxpayers to ensure that funds under its jurisdiction are spent prudently. Spending \$750,000 for a parcel of land appraised for \$175,000 to incur an additional \$500,000+ cost to clean up the contamination that is legally the responsibility of the present landowner is a bit beyond our definition of "just compensation". It is not our responsibility to compensate the Webers for a mistake they might have made when they originally purchased the parcel or for possible mistakes that have been made since.

The Webers' have requested just compensation for their land as guaranteed by the constitution. This has also been the position of the MCRC. It is unfortunate that the opportunity to see if such a figure could be agreed upon never presented itself. The eminent domain process exists for circumstances such as this. The Court will appoint three appraisers to determine the fair market value. Thereafter, if either party disagrees with the report filed by the appraisers, they may ask for a jury to determine the fair market value. We await the court's decision and will fully comply with its determination of property value and relocation costs.

Kenneth H. Behrendt
President
Michigan City Redevelopment Commission

CHUCK OBERLIE – MAYOR

City of Michigan City ~ City Hall ~ 100 East Michigan Boulevard, Michigan City, IN 46360 ~ 219.873.1400 ~ fax 219.873.1515
Web ~ emichigancity.com e-mail ~ mayorchucko@emichigancity.com