

# Freedom Matters

We are a free people in a republic, under a constitution which limits the powers of government to those necessary to secure the unalienable rights of each person to their life, liberty and property. We dedicate this paper to saving and preserving our freedom.

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## Property Rights in Cities

by Bob Bowman

People who live in Wisconsin's cities and villages and own their own homes may not be aware of how few property rights they have left. In the name of public safety, health, order, welfare, and sometimes just plain meddling, municipal ordinances govern almost all decisions about building or maintaining a home, and even to whom you may sell your home. In some cities, ordinances have been used to confiscate the ownership of all trees on private property, in essence making the trees public property, and they do so without paying any compensation to the home owners.

One thing to clear up at this point is the issue of what is meant by **owning** your home and the land on which it stands. No one owns houses or land, because it makes no sense to say it that way. What we own is TITLE to the house and the land. *Ownership is entirely a legal concept.* It exists only in records maintained and enforced by a government. Owning title to land or a house gives us the legal right to the USES of the land or the house. Under the allodial ownership guaranteed by the Wisconsin constitution, the holder of the title owns the rights to all the uses of the land without any obligation to anyone for that ownership.

In an earlier day and age, one "owned" only the land that they could defend by their personal force. Some still occasionally assert ownership by force. The ownership of land is rooted deep in the human psyche. It is not a matter to be taken lightly in the design of a state.

One sees this territoriality by force in the phenomenon of urban gangs, and their defense of their "turf." Civilization is often a thin veneer on biological man.

How thin that veneer is can also be seen in the rapacity of our courts towards property rights. Despite the clear prohibition in the constitution against the taking of private property without just compensation, the courts, right up to the Supreme Court, have

allowed the government to violate that constitutional prohibition almost from the the get-go.

That rapaciousness is at its extreme when courts gang up with government and big business to depreciate, condemn and take the private property of ordinary citizens, in order to give it to other citizens. This reached a peak in the notorious "Poletown" decision by the Michigan Supreme Court, some two decades ago. To quote from Timothy M. Sandefur, Pacific Legal Foundation attorney: "Two decades ago, Detroit's Poletown neighborhood was leveled to make way for a General Motors Corp. auto plant. Turned to rubble was an area of more than 1,200 homes, 140 businesses, six churches, and a hospital."

In other words, 1200 city families lost their homes, not for their land to be taken for public use, but for it to be taken for General Motors's use. What happened was that the court redefined "public use" to mean "public benefit." By that doctrine, anyone's land and home could be seized to give to anyone else whom the government thought would use the land to better benefit the government (as by paying more taxes on it).

Government being an inherently rapacious activity (as George Washington noted), the record for "public benefit" has not been good. In the Detroit Poletown case, Sandefur summarizes as follows: "Some urban analysts now believe the Poletown teardown, and its dispersal of homeowners, hastened the decline of Detroit's core business region through the 1980s."

Now the Michigan Supreme Court has unanimously reversed its earlier "Poletown" decision. The lesson is clear. *It is the ordinary citizen who most needs the protection of property rights.* The rich can always protect their property rights, by the use of force -- economic force. Ordinary citizens depend on the law to protect their property rights. That's why it is so odd to see ordinary citizens busily destroying property rights, by destroying the rule of law that protects property rights. When they take away the rights of their neighbors, they take away their own rights too.

Property rights web sites: < <http://www.fairnessinlaw.org/> >  
< <http://www.takebackwisconsin.com/> >  
<<http://www.PropertyRightsResearch.org>>

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