

# THE WALL STREET JOURNAL.

OPINION | REVIEW & OUTLOOK

## No Property Rights Zones

Mbogo loses in Dallas and other cities are pulling the same trick

May 13, 2016 6:32 p.m. ET

Recently we told you about Hinga Mbogo, a Kenyan immigrant in Dallas fighting to keep his auto repair shop open. In a campaign to gentrify his neighborhood, Dallas is using zoning laws to force Mr. Mbogo to close his business. The Dallas City Council has since voted 8-5 to deny Mr. Mbogo's appeal.

The decision means Mr. Mbogo will likely have to sell his property to someone who wants to use it for a business that the city considers more suitable for a corridor leading into its arts district. That should worry Texas residents who have been strong defenders of property rights.



PHOTO: GETTY IMAGES

The fight is unbecoming to Dallas, but imitation is the sincerest form of government abuse and other cities are trying the same end run around the Fifth Amendment. The legal term is “amortization,” in which cities use zoning laws to strip property owners of the right to use their land as they wish. The property owners are typically given a period to “recoup” their investment before having to shut down.

The Ridgeland suburb of Jackson, Mississippi, is using its property code to get rid of older apartment complexes with an eye toward reducing rental properties in the city. In 2014 the town rezoned sections of Southeast Ridgeland from multifamily to mixed-use, forcing many buildings into noncompliance.

The targets include the Baymeadows apartment complex whose residents are more than 80% minority. The city claims the area is blighted but few residents agree. The

property owners have been renovating the units and grounds that include a gazebo area and swimming pool.

Under the city's plan, within some six years the owners will have to close the complex and tenants will have to vacate. Unlike eminent domain actions that undergo legal review and must compensate property owners, the amortization and zoning ploys legislate away property rights without compensation. Baymeadows will lose both the future income revenue from the apartment rentals and the value of the underlying asset. Who wants to buy a property whose units would likely have to be bulldozed to comply with new zoning rules?

Ridgeland's action is already the subject of several federal and state lawsuits, including one from Baymeadows, alleging the law violates due process and represents an unconstitutional taking. The Department of Housing and Urban Development has filed an administrative complaint charging that the town's action represents "unlawful discrimination based on race."

Eminent domain is often abused for the benefit of private interests, but many states have pushed back and passed laws to protect property owners. Cities are now using amortization and zoning to accomplish the same end, but the Constitution bans takings without "just compensation." Courts are the last stand against this government abuse.