

THE BUFFALO NEWS

Eminent domain could be used for site of new stadium

Legal process has been upheld in court in several recent prominent sports projects

on January 18, 2015 - 7:34 PM



The city of Arlington, Texas, used the legal process of eminent domain to help secure the land for AT&T Stadium, home of the Dallas Cowboys. Associated Press file photo

Eminent domain could come into play in determining a site for any possible new stadium for the Buffalo Bills.

That's the legal process by which governments take privately owned land and pay fair market value for it, so that the property can be used for other purposes.

Eminent domain has factored into some recent, high-profile stadium and arena projects around the country. Judges have upheld use of eminent domain to acquire land to build new facilities for sports franchises, not just for public purposes like roads and parks.

In New York City, construction of the Brooklyn Nets' arena used land taken through eminent domain. The city of Arlington, Texas, used the process to help make way for AT&T Stadium, home of the Dallas Cowboys. As Boston seeks to host the 2024 Summer Olympics, some are concerned that eminent domain could be used to build Olympic venues.

Adam S. Walters, a Phillips Lytle partner and land attorney specializing in development, said if a new Bills stadium is publicly owned, whatever governmental entity that owns it would have the power to use eminent domain to acquire properties.

“It is well established in New York that eminent domain is available for the acquisition of land by the state or county for a stadium to be leased to a private entity,” Walters said.

But that’s not to say that eminent domain would be a government’s first choice. “They’ll work hard to avoid eminent domain, because you try whenever you can to negotiate a purchase” with the property owners, Walters said. That’s because eminent domain is a controversial and complex process, he said.

“If you can pay a little more for a property but acquire it through a negotiated sale, you do that,” he said.

Development projects are challenging enough, he said. “When you stir up a lot of public opposition because you’re taking people’s property, it creates another big hurdle you have to overcome and one that could undermine your project and prevent you from going forward.”

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