



[REPORT ABUSE](#)

[GIVE NOW](#)

Domain
Abuse

Georgia Grocery Store Owner Defeats Government in Eminent Domain Dispute



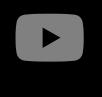
[ISSUES](#)

[CASES](#)

[NEWS](#)

[WHAT WE DO](#)

[SUPPORT IJ](#)



Share

- [Facebook](#)
- [Twitter](#)
- [Email](#)
- [Print](#)



Article | November 3, 2017

Matt Powers

Reporting and Communications Associate

More than 10 years after being enacted, a post-*Kelo* eminent domain reform law was interpreted for the first time by the Georgia Supreme Court on Monday. The unanimous decision in *City of Marietta v. Summerour* dismissed the City's petition to condemn a parcel of land that Ray Summerour has owned for nearly three decades. The court ruled that under the Landowner's Bill of Rights law, Summerour should have been provided with a detailed appraisal from the city before moving to condemn the property. At the time the law was being crafted, the Institute for Justice (IJ) met with legislators in Atlanta to counsel them and their staffs on legislative language, and testified on pending eminent domain reform legislation. This marked the first time the law, passed in the aftermath of the *Kelo v. New London* decision, was addressed by the court.



According to the *Atlanta Journal-Constitution*:

The city originally offered Summerour \$85,000 for his property [*Brenda's Grocery*], which is less than an acre, to expand a proposed park. Summerour declined to sell — he saw the park as a potential boon to business. The city condemned the property in 2014. The purchase price was set by a court at \$225,000.

Under the Landowner's Bill of Rights, a property owner must be given an opportunity to accompany an appraiser during their inspection of the property prior to condemnation. The city skipped this step, though, and argued in court that the the Landowner's Bill of Rights was meant more as a guideline rather than a mandatory protection. The Georgia Supreme Court rejected that argument, rightfully recognizing that the law is meant to give property owners real—and mandatory—protections. Because the City failed to follow the law to the letter, its effort to take Summerour's property was thrown out, sending city officials back to the drawing board.

The law at the center of this case was passed in the wake of the infamous United States Supreme Court decision in *Kelo v. New London* which said expanded the definition of "public use" to include the mere potential of increased tax revenues. In the years since *Kelo*, with IJ's leadership, 44 states have legislatively reformed their eminent domain laws to some degree, with the just-interpreted Georgia reforms standing among the nation's strongest. In addition to the procedural protections at the heart of the Summerour case, Georgia's reforms made substantive changes to the state's eminent-domain laws. They not only made clear that eminent domain as limited to "public use" but also restricted the definition of "public use" to preclude abuses like *Kelo*.

Georgia must continue to uphold strong protections for property owners to prevent eminent domain abuse. Other states should also follow Georgia's example to put a stop to eminent domain abuse and protect people like *Charlie Birnbaum*, who is currently teaming with IJ to prevent New Jersey officials from seizing the Atlantic City home he inherited from his parents.

JOIN THE FIGHT! Sign up for newsletters:

First Name (required) Last Name (required)



E-mail address (required)

Yes, I want a hard copy, too!

[Submit](#)



Litigating for Liberty.

About Us

Contact Us

Working at IJ

Job Openings

Media Center

News

Issues

Cases

Activism

Research

Center for Judicial Engagement

Clinic on Entrepreneurship

National Law Firm for Liberty

[GIVE NOW](#)