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To resolve Old Town land dispute, talk first and save legal proceedings for later

by **Opinion Contributor**

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Lot 198 on Treat and Webster Island in Old Town is the subject of disagreement between local residents and the city. Credit: Nina Mahaleris

The lead article in the State Section of the Feb. 26 Bangor Daily News was titled “Island residents, city dispute land rights.” Those of us who live on the island wish that the title would have used the word “discuss” rather than “dispute.” The issue is a very nuanced one, but one dominant underlying issue is the discussion of openness and transparency in local government.

I suggest that the advice given by Old Town’s legal counsel to the city council only reinforces a divisive process. The article quotes the city’s legal counsel, Ed Bearor, as saying “If anyone wants to make a claim and convince somebody wearing a black robe that they own the property, they’ll get paid some money for it. It’s that simple”.

No, it is not that simple. In fact, those who have submitted a claim to parts of the abandoned property on Treat and Webster Island (locally referred to as French Island) have expressed to the city that they are willing to take on an additional tax burden once they gain title to the land.

Turning untaxed and unused land into taxable land is part of the economic development plan of our city. This is what we want to do, but the city, through its legal counsel, seems to want to force the dialogue into the courtroom and away from public discussion. The result will be unused land, uncared for and untaxed. A wasted opportunity for the city.

The bigger issue here is the principle of transparency. Being clear, open, and honest in issues regarding the use of municipal authority is essential for local governments.

The same legal advisor to the city who was quoted in the BDN article wrote in [a legal filing](#) with the Penobscot County Superior Court last year that “when proceeding with the procedure for eminent domain, notice was provided to the community via the town council agenda. No defendant came forward to challenge the taking.” There are requirements the State of Maine has in place regarding the use by a municipality of eminent domain. One important procedural requirement is that [public notice](#) is required.

Old Town city councilors were told that because sewer lines ran under the abandoned property, an “exigency” allowed the council to condemn and seize the land without prior public notice. The sewer lines have been there for more than 40 years. There is no need to circumvent the legal process because of a questionable claim of a pressing or urgent situation.

The draconian action of eminent domain should be a legal maneuver used as a last resort if parties can not reach agreement after serious negotiation. We citizens are asking the Old Town City Council to enter into discussion with us before a legal process is invoked. By creating this confrontational legal situation between us and our elected officials, the dialogue has moved from city chambers into a courtroom. We have said from the beginning that effective resolution of the issues over this abandoned property can be achieved by open and transparent discussion among neighbors without the need for lawyers.

The city’s approach of waiting until the legal process is complete, and then sitting down to talk to us is backwards. First, let’s talk. If we reach an impasse, then legal action may be used.

For a complete history of this ongoing process, go to frenchisland.me. Documents relating to the case are there. Every citizen of Old Town should be aware of the facts of the case. All Mainers lose the essential value of transparency in government if they are not well informed

and are not allowed to shape local policy based on that knowledge. We are fully capable of working out a good agreement without the threat of eminent domain clouding our discussion.

Jim Mitchell of Old Town is a retired educator. He lives on French Island.

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