



THE LAWYER

Champions property values as ‘a cause of freedom’

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With his silver coif and smooth baritone, **Toby Prince Brigham** could be mistaken for an evangelist.

In a sense, he is - a preacher of the gospel of property rights, based on sacred text of the Constitution. And if you're a land-grabbing bureaucrat, he may be your worst enemy. The Miami lawyer has spent more than 40 years fighting condemnation cases, representing some of Florida's biggest and most politically connected landowners. He's won tens of millions of dollars in legal fees and a reputation as the state's top eminent domain attorney. But he says his work is nothing less than a crusade.

"It's a cause of freedom," said Brigham, 68. "All of our civil rights empower the individual, and they keep government from becoming totalitarian."

He'll remind anyone who will listen that

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Americans' property rights were bought with blood on the battlefield.

"He talks about Normandy, Iwo Jima, the Founding Fathers, the Revolutionary War," said former state Deputy Attorney General Peter Antonacci, an old adversary. "He's passionate. It's unbelievable. After a while it's like, 'Golly, is he serious?'"

And it works - even when Brigham's client is a corporation such as real estate giant St. Joe Co., Florida's largest private landowner.

Condemnation "is a hot button for a jury. . . . Jurors relate to it just as they do with personal injury cases," Antonacci said.

"It's a mother lode for someone who's skilled in histrionics like Toby is."

But Brigham disagrees that juries are swayed by emotion.

"The jurors are taxpayers," he said.

"There aren't runaway juries in eminent domain."

Instead, "I find that juries punish the party that is overreaching" - whether it's the landowner asking for too much money or the government offering too little.

Usually, he says, it's the latter.

Brigham's weapons include state condemnation laws that guarantee the landowner a trial before a 12-person jury, the same size reserved for deciding the death penalty.

The state also must pay for the owners' expert witnesses - a right that Brigham's father, E.F.P. Brigham, won before the state Supreme Court in 1950.

And if the owner gets more money than

the government offered, the agency must pay the owner's lawyer a specified percentage of the take. How lucrative is this business? Since 1998, the South Florida Water Management District alone has paid \$28 million to Brigham's firm. You name a big government land deal in Florida, and chances are he's been involved.

When the U.S. Interior Department created the Big Cypress National Preserve in the 1970s, his firm represented 4,000 owners who were losing their land. In the 1990s, when preservationists clamored to save an ancient artifact called the Miami Circle, Brigham helped win \$27 million for the condo developer who owned it. More recently, Brigham's lawsuits forced the water district to offer a lot more money for more than two dozen Broward County tracts needed for an Everglades reservoir.

In Loxahatchee, Brigham persuaded the district to pay \$139 million for 900 acres of rock pits owned by Palm Beach Aggregates Inc., eight times what one district-hired appraiser said the property was worth on the open market.

"I'm not intimidated by Toby Brigham," said district Executive Director Henry Dean, who has tangled with him many times over the past 20 years. But given the expense of going to court, win or lose, it's usually cheaper to work out a deal, said Deputy Land Acquisition Director Ruth Clements. In turn, Brigham praises the less-confrontational strategy the district has adopted since July 2001, when Dean took the helm.

"The present administration is a lot more resourceful and is not trying to outsmart owners," he said.