



Contact: Stacy Pearson  
Rose & Allyn Public Relations  
Office: 480.423.1414  
Cell: 602.577.6888  
Email: spearson@roseandallynpr.com

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## **Tempe Marketplace scales last hurdle in land dealings**

Katie Nelson  
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The final landowner who tried to block an environmental cleanup and \$250 million megamall in Tempe has finally signed a deal.

The sale not only clears the way for Tempe Marketplace, southwest of the intersection of Loops 101 and 202 but also is a victory for landowners' rights in Arizona.

Thirteen landowners had sued the city and the project's developer for trying to use eminent domain to secure the land after the property owners refused to sell.

A Maricopa County Superior Court judge ruled in the landowners' favor. So the city and the developer threatened to appeal the decision, pushing for the right to take parcels for "public use." That would have challenged the Mesa Bailey Brake Shop case, which protects the rights of property owners in similar cases.

But now that the last landowner reached a deal after about seven hours of negotiations Wednesday and finalized it Friday afternoon with a signature, the threat of a challenge is put to rest.

"This demonstrates that both development and redevelopment can and will occur without the use of eminent domain," said Tim Keller of the Institute for Justice, a public-interest law firm that is critical of the use of eminent domain.

"This should spur the Legislature to secure private property rights and ensure they won't be abused in Arizona." Although the exact terms of the agreements are private, the other property owners all reached deals with Vestar Development Co. compensating them for the land or moving their businesses to another location.

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In all, 52 parcels of land were purchased and will be combined to make way for the mall. The 117 acres are being cleared of the polluted remains of three unlined landfills below ground. Machinery is running at the site daily, digging and leveling the land.

Vestar announced at a groundbreaking last week that the shopping center may open by summer 2007. "We were fully prepared to proceed without (the last property), but at the same time, we were always hopeful," said David Larcher, Vestar executive vice president.

The last lot incorporated will be in the middle of the mall's parking lot near a JCPenney store. "We're relieved," said attorney Doug Zimmerman, who represented the last landowners, Del Sturman and Donna McGregor, who run Desert Composites, a metal-fabrication company.

"It was a long, hard road...my clients went through a horrific year and a half, risking everything they had to gamble that we would be able to prevail in court. All they wanted was to be compensated fairly."