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HEADLINE: Attorney Alan Ackerman Hails Michigan Supreme Court's Unanimous Reversal of "Poletown" Decision That Established Precedent for Eminent Domain Abuses Nationwide.

BODY:

TROY, Mich. -- Ackerman Prevailing Attorney in Case Leading to Poletown Reversal; Had Also Represented Businesses in 1981 Case

Alan Ackerman, managing partner of eminent domain specialist law firm Ackerman & Ackerman, today hailed the Michigan Supreme Court's historic reversal of the "Poletown" decision, a controversial and oft-cited 1981 ruling that is largely viewed as the catalyst for eminent domain abuses across the country.

Ackerman was the lead attorney who challenged the constitutionality of Poletown during arguments for another eminent domain case before the Michigan Supreme Court (*Wayne County v. Hathcock*), which was also favorably decided Friday on behalf of 12 owners he represented. This case marked the first time the Court agreed to revisit its *Poletown Neighborhood Council v. Detroit* decision. Ackerman was involved in the 1981 case, having represented more than 20 businesses involved in valuation disputes.

He was aided in the current case by firm partner Darius Dynkowski, who handled the trial court proceeding, and Mary Massaron Ross, the latter a respected appellate attorney in land use area at Detroit-based Plunkett & Cooney, P.C. Ms. Ross is head of her firm's Appellate Practice Group and a former Chair of the American Bar Association's Section of State and Local Government Law.

"Eminent domain" typically refers to the right granted to government authorities by the U.S. Constitution to seize privately held property for public use, provided the owner is fairly compensated for the loss. The Poletown decision, however, was significant for redefining the legal interpretation of what constitutes "public use" as it was the first time a high court ruled that condemned private property could be turned over to another private party or enterprise for its own use under the guise of general economic benefit to the community.

In its Opinion on the case, the Michigan Supreme Court justices decreed that the proposed private property condemnations at issue in the *Wayne County v. Hathcock* suit "do not pass constitutional muster under...(Michigan's) 1963 constitution." They also stated that Wayne County's plan to transfer the rights to the condemned property to private parties was "...in a manner wholly inconsistent with the common understanding of 'public use' at the time our

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Constitution was ratified."

"The impact of the 1981 'Poletown' decision was felt far beyond the borders of the single neighborhood that it affected 20 years ago, as this precedent-setting ruling effectively opened the door for eminent domain property condemnation abuses elsewhere in the country," said Ackerman. "And while Friday's notable and courageous reversal won't return to the Poletown families the property taken from them 20 years ago, it will re-impose limits on government bodies' power to seize the rightful private property of one group for another private entity's economic gain. This ruling is clearly a tremendous win for all property owners."

Under the March 1981 Poletown decision, the Michigan Supreme Court essentially allowed for the leveling of a Detroit neighborhood known as Poletown (named after the high concentration of Polish immigrants that once lived there) to accommodate plans for construction of a new plant for General Motors, clearly a non-government entity. Fifteen hundred residents and over 50 businesses were displaced in the aftermath of this highly contentious decision, which set the stage for countless other government agencies to seize private property for another private party's development or use. According to the Institute for Justice, there have been 10,000 private-to-private seizures in the U.S. between 1998 and 2002, the most recent years for which the data is available.

Among the states whose highest courts have cited Poletown to rationalize private-to-private eminent domain seizures: Connecticut, Delaware, Michigan, Minnesota, Nevada, New Jersey, North Carolina, and Maine.

Alan Ackerman has devoted his practice over the last 25 years to eminent domain cases in courts throughout the United States. He has served as counsel in hundreds of condemnation trials and appeals, and is often asked to speak on eminent domain and real estate valuation issues for legal organizations in Michigan and elsewhere. He has served as vice-chairman or chairman of the American Bar Association's Real Property Section Condemnation Law Committee for more than a decade.

About Ackerman & Ackerman

For more than 50 years, Ackerman & Ackerman has represented property owners and business clients in eminent domain and condemnation proceedings. The Troy, Michigan-based firm specializes in eminent domain and condemnation law including government valuations, complete or partial real estate takings, just compensation and land acquisitions. Additional information about the firm is available at www.ackerman-ackerman.com.

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