



CONNECTICUT CONFERENCE OF MUNICIPALITIES

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TESTIMONY

of the

CONNECTICUT CONFERENCE OF MUNICIPALITIES

to the

JUDICIARY COMMITTEE

March 17, 2006

The Connecticut Conference of Municipalities appreciates the opportunity to testify on the important issue of eminent domain.

As you are keenly aware, eminent domain has long been a fundamental and necessary tool to promote the public interest. CCM applauds the deliberative and reasoned approach the committee is taking in reviewing Connecticut's eminent domain laws, although emotions continue to run high after the U.S. Supreme Court decision, *Kelo v. New London*.

CCM supports eminent domain reform that calls for:

- *Modifying the State Uniform Relocation Assistance Act* to ensure that it reflects the varying needs of displaced property owners and fully compensates them for relocation costs.
- *Reexamining the definition of "just compensation"* to ensure that the definition is not always limited to fair market value for property. In some instances, a market value plus approach (e.g., 125%) may be appropriate to recognize the social and sentimental value of the property, as well as the future worth of the property post-development.
- *Ensuring greater transparency and accountability* of local government by requiring local legislative bodies to (1) approve of project areas to be acquired by eminent domain and (2) articulating clear expectations and goals for development and redevelopment plans.
- *Reviewing and reassessing development and redevelopment plans* after a period of time if no activity has occurred.

CCM has completed an initial review of the proposed language to be added and removed from existing statutes. Any modification to existing statutes must be done with great care, with a full understanding of all consequences.

H.B. 5810, “An Act Limiting the Use of Eminent Domain by Municipalities and Municipal Development Agencies and Establishing An Office of Property Rights Ombudsman”

CCM has several fundamental concerns with this bill.

H.B. 5810 would eliminate municipal authority to exercise the power of eminent domain when pursuing municipal development projects under Chapter 132 of the Connecticut General Statutes. (Lines 7-14) It would do the same for economic development projects being pursued under Chapter 588(l) of the Connecticut General Statutes. (Lines 42-48)

H.B. 5810 (Lines 59-62) would also eliminate municipal authority to take property for private commercial development, and for “development projects” which are defined as projects “conducted by a municipality for the assembly, improvement and disposition of land or buildings or both to be used principally for industrial or business purposes and includes vacated commercial plants[.]” CGS Section 8-187.

H.B. 5810 appears to limit the exercise of eminent domain to situations involving blighted or severely deteriorated property, and to the types of redevelopment initiatives authorized under CGS Section 8-124.

H.B. 5810 could have significant, negative implications for municipalities. CCM has not seen documentation concerning the number of past instances in which municipalities have exercised eminent domain authority under the programs that would be affected by this bill, and therefore, urge the Committee to determine the impacts of this proposal with precision before taking any action on it.

Section 5 – 14, the Ombudsman Program

This section would create an Office of Property Rights Ombudsman within the Office of Policy and Management (OPM) to force nonbinding mediation or arbitration of disputes over the exercise of eminent domain. The ombudsman provisions raise a number of serious questions (e.g., subpoena powers proposed, the handling of inverse condemnation issues, the perspective of the ombudsman, funding considerations, etc.), in addition to inserting a new level of bureaucracy into an already complicated process.

CCM urges you to consider the following issues while deliberating further on eminent domain reform:

- **Eminent domain facilitates highly valued and needed public services and facilities** – schools, the highway and rail transportation system (including local and state roads and bridges), universities, railroads, airports, and other mechanisms through which we learn, travel, communicate, function and compete globally are a result of governments and others using their eminent domain authority.
- **Eminent domain is centuries-old, a constitutionally recognized bedrock authority of government.** Any changes to this system should be undertaken with great care.

- **The *Kelo* decision reasonably pertained only to a narrow category of eminent domain takings**, namely, instances where occupied private residential property is being taken for transfer (99-year lease) to a private owner for economic development purposes without a formal finding of blight prior to the taking.
- **Reform of the state-local tax system and land-use practices should be a part of any eminent domain reform discussion.** The U.S. Supreme Court recognized the fiscal distress and decline of New London and the appropriate use of eminent domain to help reverse this decline. The present property tax system exacerbates the problems of communities like New London by promoting (1) disinvestment in our urban towns and cities where the infrastructure to support development already exists, (2) competition between communities for tax base growth, and (3) costly sprawl development that consumes open space, farmland and environmentally-precious resources. Further, if eminent domain reform legislation curbs municipalities' ability to grow their tax base, towns and cities must be provided with other options to raise revenue to pay for needed public services.

CCM looks forward to continuing to work with you to ensure that property owners are treated fairly and that the fundamental authority of municipalities to acquire property via eminent domain for public purposes remains viable. This is vital to helping ensure healthy municipalities, Connecticut's quality of life, and a robust and economically competitive state.

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If you have any questions, please call Jim Finley, Ron Thomas or Gian-Carl Casa at (203) 498-3000.