

# *Connecticut State Grange*

## **TESTIMONY OF THE CONNECTICUT STATE GRANGE IN SUPPORT OF SENATE BILL NO. 605 AND HOUSE BILL NO. 5810 CONCERNING THE TAKING OF REAL PROPERTY BY MUNICIPALITIES THROUGH EMINENT DOMAIN**

**MARCH 17, 2006**

I am Gordon Gibson of Vernon, Legislative Director of the Connecticut State Grange. I am speaking today on behalf of the 5,000 Grange members throughout Connecticut in support of Senate Bill No. 605 and House Bill No. 5810 to limit the right of municipalities to acquire interests in real property for private development through eminent domain.

There is, however, one issue that is not addressed in either of these bills. Many parcels are now protected from development by conservation, open space, farmland preservation and similar easements held by nonprofit land trusts. As title to the underlying fee passes from one owner to another, situations arise where the interests of the fee owner are not in harmony with those of the land trust which holds an easement on the property. The Grange is concerned that, based on the decision of the United State Supreme Court in *Kelo v. New London*, a municipality could take an existing easement from a private land trust and convey it to the owner of the underlying fee title, thereby extinguishing the easement and allowing the owner to develop the property for whatever purposes he or she wanted so long as it was consistent with the local zoning ordinances and plan of development. As an example, we have only to look at a case in Preston where the owners of land subject to a development rights easement held by the State of Connecticut want to develop the property into a golf course. The Department of Agriculture has rejected all of the owners' proposals and the owners have brought an action in court to compel the State to allow their proposed golf course. In this case the State's sovereignty would override any action the Town of Preston might take, but if that easement were held by a private land trust it would be a small step from the Kelo case for the landowner to convince the Town that a golf course would produce more tax revenue than preserved farmland. The Town could then take the easement by eminent domain and convey it to the owner of the fee title, thereby extinguishing the easement and allowing construction of the golf course.

The Connecticut State Grange therefore urges the Judiciary Committee to add language to Senate Bill No. 605 and House Bill No. 5810 that would recognize a land preservation easement as a completely separate entity from the underlying fee title and allow the holder of a land preservation easement to raise the same defense to a proposed taking as the fee owner would have, separate and distinct from the owner's defenses.

Over the years many people have donated easements on their property or cash that enabled a land trust to purchase an easement to protect the property and preserve the quality of life for all the

residents of Connecticut, both now and in the future. The Connecticut State grange believes these easements should be protected from takings by the towns through eminent domain to allow private development. In light of the court's decision in *Kelo v. New London* the 5,000 Grange members throughout Connecticut urge the General Assembly to pass Senate Bill No. 605 and House Bill No. 5810 to protect the easements that protect our open lands and the quality of life of all the residents of Connecticut.

Thank you for your consideration of my testimony.

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