



TESTIMONY

of the

CONNECTICUT CONFERENCE OF MUNICIPALITIES

to the

JUDICIARY COMMITTEE

re: 1446

March 23, 2007

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, after the U.S. Supreme Court decision, *Kelo v. New London*.

It's worth remembering that the vast majority of cases involving the use of eminent domain are resolved leaving property owners feeling that they have been fairly compensated. Further, eminent domain is an authority exercised with great care, deliberation and public scrutiny. Indeed, no municipality wants to remove their own residents from their homes. When eminent domain is used, it is used grudgingly, as a last resort.

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.

- *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 Ron Thomas or Gian-Carl Casa at (203) 498-3000.

Attachments

Office of Ombudsman for Property Rights

H.B. 5846 (sections 3-11) establishes an Office of Ombudsman for Property Rights to assist the public and public agencies regarding eminent domain law and procedures. For administrative purposes, the Office will be within the Office of Policy and Management (OPM). Effective date: July 1, 2006. The ombudsman would, among other things:

- Inform property owners of their rights re eminent domain, and provide assistance concerning eminent domain procedures, including relocation assistance.
- Advise public agencies of “potential eminent domain implications”, if appropriate.
- At the request of public agencies, provide assistance and analysis re state law concerning eminent domain.
- Force nonbinding mediation of disputes over the exercise of eminent domain, and allow the ombudsman to hire an independent real estate appraisal to assist in such mediation.
- **Recommend “to the General Assembly changes that, in the opinion of the Ombudsman for Property Rights, should be made to the general statutes related to eminent domain powers and procedures.”**
- Adopt regulations to establish a procedure for requests to mediate eminent domain or relocation assistance disputes filed with the Office, as well as criteria to determine the process under which requests for mediation should be accepted or rejected.
- Allow any party to a dispute to file a motion to stay on eminent domain proceedings. However, any party may order that such stay be terminated.
- Require public agencies to respond to “reasonable requests” for information and assistance.
- Prohibit Office employees from holding positions with other public agencies, receiving remuneration for eminent domain-related assistance, and working for a public agency within 3 years after terminating employment with the office.
- Allow the ombudsman to accept gifts and grants from public and private entities.
- Require public agencies proposing to acquire property via eminent domain to (a) make “reasonable” efforts to negotiate with property owners for the purchase of such property, (b) within 14 days of initiating an eminent domain action, notify property owners of the services of the Office of Ombudsman for Property Rights – and the name, address and phone number of the ombudsman, and (c) provide property owners with a written statement “explaining that oral representations or promises made during the negotiation process are not binding on the public agency seeking to acquire the property by eminent domain”. The information must be provided in a form prescribed by the ombudsman.
- \$200,000 has been allocated to fund the Office in FY 07.

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

CCM, 5/06

Action to further protect property rights

General Assembly establishes property rights ombudsman

Connecticut lawmakers took an important step in further protecting property rights by creating a new property rights ombudsman. The ombudsman will help mediate disputes and educate homeowners and municipalities about their rights and obligations during eminent domain procedures. The office of the ombudsman will be run out of the Office of Policy and Management. It is budgeted at \$200,000.

Efforts in Connecticut and other states to clarify the use of eminent domain authority resulted from a U.S. Supreme Court ruling last year in *Kelo vs New London*. The court ruled that the city's

development agency appropriately exercised eminent domain authority to take some homes for fair market value as part of a comprehensive economic development project to revitalize the city.

Some states do not have the same procedural and other protections afforded property owners by Connecticut law. As a result, 18 other state legislatures passed bills concerning eminent domain, and proposals were pending in several others.

Connecticut's new property rights ombudsman can help ensure the appropriate balance between individual property rights and the public good. ■