



NATIONAL ASSOCIATION OF REALTORS®

The Voice For Real Estate®

500 New Jersey Avenue, N.W.
Washington, DC 20001-2020
202.383.1194 Fax 202.383.7580
www.realtors.org/governmentaffairs

Al Mansell, CRB
President

Terrence M. McDermott
EVP/CEO

GOVERNMENT AFFAIRS
Jerry Giovaniello, Senior Vice President
Walter J. Witek, Jr., Vice President

October 25, 2005

U.S. House of Representatives
House Judiciary Committee
Washington, D.C. 20515

Dear Congressman:

As the Committee prepares to mark up H.R. 3135, the Private Property Rights Protection Act of 2005, the NATIONAL ASSOCIATION OF REALTORS® welcomes this opportunity to share its views regarding private property rights and eminent domain. The NATIONAL ASSOCIATION OF REALTORS® is America's largest trade association, representing over 1.2 million members, including NAR's institutes, societies and councils, involved in all aspects of the residential and commercial real estate industries.

The protection of the right of citizens to be secure in their ownership of property is a core value of REALTORS®. NAR believes it is an essential condition for the operation of our free enterprise system and a first principle of the social contract upon which our democratic system of government relies for legitimacy. Any erosion of this protection, real or perceived, is cause for serious alarm. So much depends on it.

Additionally, REALTORS® are firm in their belief that the use of eminent domain is a state and local issue. Following the Supreme Court's decision in the *Kelo* case, NAR commissioned in late August a scientific opinion poll of REALTORS® nationwide on the topic of eminent domain in general. The key findings determined:

- 66% of REALTORS® do not support the *Kelo* decision; almost half are **strongly** opposed
- 86% would support condemnation of **blighted** properties that pose a risk to public health or safety
- 53% said eminent domain **should not** be used to take non-blighted properties, even if required by an economic development plan
- 58% responded that "just compensation" should include more than fair market value
- 69% said **each state** should have the power to make its own laws about eminent domain, while 29% said the Congress should establish standards for the proper use of eminent domain

The last finding of the survey underscores an important concern of NAR – that state and local governments are best and rightfully positioned to render decisions regarding eminent domain law. Matters concerning land use, economic development, blight and the like are essentially local issues better

handled at the local and state level. These levels of government are closer to the issues and to the people affected. The federal government should preempt state rules rarely and only when a significant federal interest is at stake.

Our research indicates that in the area of eminent domain, the states have not been lax. In fully half the states a taking such as occurred in New London would not have been legal due to restrictions in the state constitution, statutes or case law. In the wake of *Kelo* three states, Delaware, Alabama, and Texas, have already amended their laws to further restrict the use of eminent domain. Many other state legislatures, including Connecticut's, are preparing to act in their next session to toughen their eminent domain laws. NAR applauds this effort and encourages our state REALTOR[®] associations to work with legislatures to craft reasonable reforms.

REALTORS[®] believe it is preferable that states be given the chance to devise their individual solutions appropriate to conditions in the respective states rather than have the federal government impose a "one-size-fits-all" solution from above. An appropriate federal role might be to provide technical assistance grants to the states to help them get the job done. For its part, NAR is doing just that through our state affiliates. For example, NAR has provided analysis and suggested improvements for eminent domain reform bills in Pennsylvania, Massachusetts, and New York.

While the *Kelo* decision is troubling and the impulse to act is strong, NAR urges the Congress to exercise restraint. The states are moving rapidly to correct this problem. At the very least, Congress should take a wait and see attitude while the process works itself out at the state level.

Thank you for your consideration of our views.

Sincerely,

A handwritten signature in black ink, appearing to read "Al Mansell". The signature is fluid and cursive, with a large initial "A" and "M".

Al Mansell, President
National Association of REALTORS[®]