

109TH CONGRESS
1ST SESSION

H. RES. 340

Expressing the grave disapproval of the House of Representatives regarding the majority opinion of the Supreme Court in the case of *Kelo et al. v. City of New London et al.* that nullifies the protections afforded private property owners in the Takings Clause of the Fifth Amendment.

IN THE HOUSE OF REPRESENTATIVES

JUNE 24, 2005

Mr. GINGREY (for himself, Mr. WILSON of South Carolina, Ms. HARRIS, Mr. OTTER, Mr. HAYWORTH, Mrs. DRAKE, Mr. DOOLITTLE, Mr. SMITH of Texas, Mr. ISTOOK, Mr. WESTMORELAND, Mr. TIAHRT, Mr. MILLER of Florida, Mr. FOLEY, Mr. POE, and Mr. BLUNT) submitted the following resolution; which was referred to the Committee on the Judiciary

RESOLUTION

Expressing the grave disapproval of the House of Representatives regarding the majority opinion of the Supreme Court in the case of *Kelo et al. v. City of New London et al.* that nullifies the protections afforded private property owners in the Takings Clause of the Fifth Amendment.

Whereas the takings clause of the fifth amendment states “nor shall private property be taken for public use, without just compensation”;

Whereas upon adoption, the 14th amendment extended the application of the fifth amendment to each and every State and local government;

Whereas the takings clause of the 5th amendment has historically been interpreted and applied by the Supreme Court to be conditioned upon the necessity that Government assumption of private property through eminent domain must be for the public use and requires just compensation;

Whereas the opinion of the majority in *Kelo et al. v. City of New London et al.* renders the public use provision in the Takings Clause of the fifth amendment without meaning;

Whereas the opinion of the majority in *Kelo et al. v. City of New London et al.* justifies the forfeiture of a person's private property through eminent domain for the sole benefit of another private person;

Whereas the dissenting opinion upholds the historical interpretation of the takings clause and affirms that "the public use requirement imposes a more basic limitation upon government, circumscribing the very scope of the eminent domain power: Government may compel an individual to forfeit her property for the public's use, but not for the benefit of another private person";

Whereas the dissenting opinion in *Kelo et al. v. City of New London et al.* holds that the "standard this Court has adopted for the Public Use Clause is therefore deeply perverse" and the beneficiaries of this decision are "likely to be those citizens with disproportionate influence and power in the political process, including large corporations and development firms" and "the government now has license to transfer property from those with fewer resources to those with more"; and

Whereas all levels of government have a Constitutional responsibility and a moral obligation to always defend the

property rights of individuals and to only execute its power of eminent domain for the good of public use and contingent upon the just compensation to the individual property owner: Now, therefore, be it

1 *Resolved*, That—

2 (1) the House of Representatives—

3 (A) disagrees with the majority opinion in
4 Kelo et al. v. City of New London et al. and its
5 holdings that effectively negate the public use
6 requirement of the takings clause; and

7 (B) agrees with the dissenting opinion in
8 Kelo et al. v. City of New London et al. in its
9 upholding of the historical interpretation of the
10 takings clause and its deference to the rights of
11 individuals and their property; and

12 (2) it is the sense of the House of Representa-
13 tives that—

14 (A) State and local governments should
15 only execute the power of eminent domain for
16 those purposes that serve the public good in ac-
17 cordance with the fifth amendment;

18 (B) State and local governments must al-
19 ways justly compensate those individuals whose
20 property is assumed through eminent domain in
21 accordance with the fifth amendment;

1 (C) any execution of eminent domain by
2 State and local government that does not com-
3 ply with subparagraphs (A) and (B) constitutes
4 an abuse of government power and an usurpa-
5 tion of the individual property rights as defined
6 in the fifth amendment;

7 (D) eminent domain should never be used
8 to advantage one private party over another;

9 (E) no State nor local government should
10 construe the holdings of *Kelo et al. v. City of*
11 *New London et al.* as justification to abuse the
12 power of eminent domain; and

13 (F) Congress maintains the prerogative
14 and reserves the right to address through legis-
15 lation any abuses of eminent domain by State
16 and local government in light of the ruling in
17 *Kelo et al. v. City of New London et al.*

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