



COUNTY OF SAN DIEGO

BOARD OF SUPERVISORS

1600 PACIFIC HIGHWAY, ROOM 335, SAN DIEGO, CALIFORNIA 92101-2470

AGENDA ITEM

DATE: July 26, 2005

TO: Board of Supervisors

SUBJECT: REVIEW OF COUNTY OF SAN DIEGO POLICIES REGARDING
EMINENT DOMAIN (DISTRICT: ALL)

SUMMARY:

Overview

Eminent domain is the government power to acquire real property for public purposes. A recent Supreme Court decision, *Kelo v. City of New London*, sided with existing Connecticut law that allows for the taking of property for private economic benefit even without a finding of blight. This decision sets a dangerous precedent and goes beyond the accepted use of eminent domain for public benefit in the County of San Diego.

This action will direct the review and revision of all relevant policies to limit the use of eminent domain by the County of San Diego to actions that have a clear public use and public benefit.

Recommendation(s)

SUPERVISOR HORN AND SUPERVISOR ROBERTS:

Direct the Chief Administrative Officer to review policy F-24 and all policies of the County of San Diego relating to the use of eminent domain powers and return to the Board in 120 days to recommend changes to ensure the use of eminent domain is restricted to actions that benefit the public.

Fiscal Impact

There is no fiscal impact related to this request

Business Impact Statement

N/A

Advisory Board Statement

N/A

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EMINENT DOMAIN**

BACKGROUND:

On June 23, 2005 the Supreme Court of the United States rendered a 5-4 decision in the case of Susette Kelo, et al., versus City of New London, Connecticut, et al. The decision allowed for the taking of 15 homes in the Fort Trumbull neighborhood of New London, Connecticut in order to revitalize an economically distressed city. Writing for the dissent, Justice O'Connor states, "Today the Court abandons this long-held, basic limitation on government power. Under the banner of economic development, all private property is now vulnerable to being taken and transferred to another private owner, so long as it might be upgraded..."

Previous court cases have allowed for private property to be transferred to public entities or private owners so long as the public use was clear. The taking of private properties that are not blighted and transferring those properties to a private owner that will profit from the taking and may only incidentally benefit the public creates a dangerous precedent.

Currently, the County of San Diego employs eminent domain in instances that pose a distinct public use and public benefit such as the building of streets, public utilities, parks, easements, and other public facilities. Guarding against government abuse of eminent domain power is critically important to our citizens

Respectfully submitted,

BILL HORN
Supervisor, Fifth District

RON ROBERTS
Supervisor, Fourth District

SUBJECT: REVIEW OF COUNTY OF SAN DIEGO POLICIES REGARDING EMINENT DOMAIN

AGENDA ITEM INFORMATION SHEET

CONCURRENCE(S)

COUNTY COUNSEL REVIEW	<input checked="" type="checkbox"/> Yes	
Written Disclosure per County Charter Section 1000.1 Required	<input type="checkbox"/> Yes	<input type="checkbox"/> No
GROUP/AGENCY FINANCE DIRECTOR	<input type="checkbox"/> Yes	<input type="checkbox"/> N/A
CHIEF FINANCIAL OFFICER	<input type="checkbox"/> Yes	<input type="checkbox"/> N/A
Requires Four Votes	<input type="checkbox"/> Yes	<input type="checkbox"/> No
GROUP/AGENCY INFORMATION TECHNOLOGY DIRECTOR	<input type="checkbox"/> Yes	<input type="checkbox"/> N/A
COUNTY TECHNOLOGY OFFICE	<input type="checkbox"/> Yes	<input type="checkbox"/> N/A
DEPARTMENT OF HUMAN RESOURCES	<input type="checkbox"/> Yes	<input type="checkbox"/> N/A

Other Concurrence(s): N/A

ORIGINATING DEPARTMENT: Districts 5 and 4

CONTACT PERSON(S):

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AUTHORIZED REPRESENTATIVE: _____