

## REVITALIZING CITIES THROUGH EMINENT DOMAIN

**WHEREAS**, eminent domain is a fundamental and necessary power of government; and

**WHEREAS**, the purpose of eminent domain is to allow governments to undertake projects that benefit the whole community, while compensating property owners for the value of their property; and

**WHEREAS**, eminent domain can be a critically important tool for promoting sensible land use, revitalizing distressed communities, cleaning up polluted land, building new infrastructure, and alleviating the problems of unemployment and economic distress; and

**WHEREAS**, cities cannot address the issues of dilapidated and dangerous housing, overcrowding, crime, and neighborhood renewal by simply constructing train stations, roads, and parks; and

**WHEREAS**, economic development, which provides jobs, hope and opportunity to communities, is a fundamental public purpose of local governments; and

**WHEREAS**, absent appropriate sites, economic development will not happen in the places that desperately need it; and

**WHEREAS**, one of the biggest obstacles to the revitalization of our metropolitan areas, which include center cities and older inner-ring suburbs where more than 80 percent of the nation's population resides, is the difficulty of assembling parcels of land of sufficient size to allow for new economic development; and

**WHEREAS**, in situations of fragmented ownership, eminent domain is necessary to assemble parcels and move critical projects forward; and

**WHEREAS**, governments do not lightly use the power of eminent domain; and

**WHEREAS**, many state and local laws provide protections to individuals regarding the use of eminent domain; and

**WHEREAS**, there are already adequate fiscal, political and legal checks that prevent governments from arbitrarily exercising their eminent powers; and

**WHEREAS**, the concept of requiring participation by condemnees in projects involving eminent domain is practically unworkable; and

**WHEREAS**, municipalities are already regulated by the Uniform Relocation Assistance and Real Property Acquisition Policies Act where federal funds are involved, to provide relocation services and benefits which include: 1) Assistance in finding a comparable dwelling unit; 2) a replacement housing payment (difference between comparable unit cost and just compensation for property being acquired through eminent domain); 3) all closing costs associated with the purchase of the comparable unit; 4) all utility reconnecting costs; and 5) actual moving costs; and

**WHEREAS**, the United States Supreme Court's decision in *Kelo v. New London* upheld the constitutional authority of state and local governments to use eminent domain; and

**WHEREAS**, the *Kelo* case has resulted in the examination of the use of eminent domain at local, state and federal levels; and

**WHEREAS**, Congress has enacted legislation providing for a study by the Government Accountability Office on the use of eminent domain; and

**WHEREAS**, while sometimes projects that involve eminent domain use federal funds, most times the projects do not have any federal involvement,

**NOW THEREFORE BE IT RESOLVED** that The United States Conference of Mayors urges that any federal legislation enacted on eminent domain must allow eminent domain to be used to construct affordable housing, hospitals, educational institutions and public infrastructure, including highways, streets, bridges, water supply facilities, waste water treatment plants, and recycling facilities as well as the revitalization and development of brownfields; and

**BE IT FURTHER RESOLVED** that The United States Conference of Mayors urges that any federal legislation must allow the use of eminent domain for economic development to create or retain jobs and revitalize communities (a) in redevelopment areas identified as blighted areas or similar statutorily-created redevelopment project areas, which include areas that are unsafe, inadequate, unsanitary, deteriorated, dilapidated, vacant, and/or violent to the point where a threat to human health and safety may be

present; and (b) in supporting neighborhood revitalization projects that are sponsored by community-based development organizations or faith-based institutions that provide goods, services or employment; and

**BE IT FURTHER RESOLVED** that The United States Conference of Mayors urges that any federal legislation must not preempt, but must respect, the state and local judicial and political processes for resolving legal disputes arising from community zoning and land use regulation and require claimants under the Takings Clause of the U.S. Constitution to pursue available state compensation procedures before filing a federal Takings claim in federal court.

**BE IT FURTHER RESOLVED** that The United States Conference of Mayors urges Congress, if national legislation is enacted, to continue to allow local government to use eminent domain to construct:

- affordable housing;
- public infrastructure, including roads, bridges, streets, highways, pedestrian walkways and streetscapes;
- wastewater treatment facilities, recycling facilities and brownfields rehabilitation and development;
- common-carrier functions that serve the general public and are subject to regulation and oversight by the government;
- arenas or stadiums that serve the general public;
- public utility functions, including use for the generation, transmission, or distribution of electric energy for sale;
- educational institutions, including schools, universities, libraries, museums and cultural institutions; and
- hospitals.