



TWA Fact Sheet

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Eminent Domain

A Policy Statement of the Texas Wildlife Association

With the decision of *Kelo v. New London*, the U.S. Supreme Court shattered the historic, philosophical foundation of private property rights by allowing governments to seize private property in the name of economic development. In response, the Texas Legislature passed SB 7, in 2005, to help define “public use.”

While the state law was a good first step, additional work should be done. Private property owners should be protected from the threat of capricious eminent domain and if eminent domain is justifiably invoked, landowners should receive just compensation.

As long-term solutions are sought, TWA offers the following recommendations:

- **It is imperative that Texas’ definition of “public use” be tightened.** Public use should mean “the government owns the property and occupies it.” Furthermore, government at any level, should not take private property for the sole purpose of generating income.
- **Condemning authorities should be required to make good faith initial offers** based on fair market value, taking into consideration all the “assets” of the property that the market would consider.
- **If the condemning authority does not make a good faith initial offer**, and subsequently is the loser in court, it should pay for the property owners’ expenses, including attorney fees and court costs.
- **Property owners should receive adequate compensation and be left in the same relative position as before the condemnation.** Some ways to achieve this include: appraising condemned property using replacement value, paying for relocation costs, and appraising condemned land at its highest and best use. Property owners should also have an option to receive a periodic rent payment for revenue-generating projects such as utilities or pipelines.
- **If the condemning authority takes property and does not use it for the stated purpose in a reasonable amount of time, the original property owners should be able to reclaim their property.** In 2007, a state constitutional amendment passed (by an overwhelming 80 percent to 20 percent margin) that will allow property owners to repurchase their previously condemned land at the price they were paid if the condemning authority does not use the land in a timely manner. Now the Legislature must pass enabling legislation that will make the will of the people the law of the land.

In the final analysis, the government must remember two things: First, public authority shall not be used for private enrichment, because doing so is graft, pure and simple. Second, “just” is the first four letters of justice.

ABOUT US: *The Texas Wildlife Association is a non-profit organization established in 1985 to represent private land stewards, land managers, hunters and anglers from across the state of Texas. Our members care for and control almost 40 million acres of rangeland and wildlife habitat that are key components of Texas’ upstream watersheds. Because the majority of land in Texas is privately owned, the involvement of private land stewards is critical in establishing Texas’ long-term conservation policies.*

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