

HR 3405 Strengthening The Ownership of Private Property (STOPP) Act
Statement of Congressman Henry Bonilla
Before the House Committee on Resources

In Reference to HR 3405, Strengthening The Ownership Of Private Property Act

October 27, 2005

In July of 2004, the Supreme Court was petitioned to hear one of the most important property rights cases ever.

Earlier that year the Connecticut Supreme Court ruled that even if there is nothing wrong with your home or business, church or synagogue, or even your whole neighborhood or community, that government can still use eminent domain to take your property and transfer it to someone else for their private gain.

This ruling placed in jeopardy the very essence of the American way of life: that someone can start with nothing, build a family, a home, a business, and work to make his community better. This dream is directly threatened by the fear that while you work to create the American Dream, it may be taken away should government decide that another individual could create greater tax revenue. This fear is real and every individual who owns real property knows that homes generate less tax revenue than businesses and small businesses generate less tax revenue than larger ones.

The issue before the Court was brutally simple: does government enjoy protection under the Constitution to take property from one private party in order to give it to another private party for the purpose of increasing tax revenue and income? *Kelo v. New London* presented this question to the court in no uncertain terms.

The constitution of every state, as well as that of the US, requires that private property only be taken for "public use," such as transportation or public functions, not for private or commercial economic gain. The use of eminent domain authority to increase tax revenue is an abuse of the intent of "public use." Such takings are arguably the most outrageous and broad action possible by government against its own citizens.

Not only does this decision put in jeopardy the ownership of property in our nation, it places ethical government in the crosshairs of those which would seek to manipulate the system for their personal gain. Those with deep pockets and questionable intentions now have both the legal means and profit motive to sway local officials to do their bidding.

The Court's ruling in favor of New London creates a precedent that will hang like a stone around the neck of the average citizen, the small businessman, the common man. This stone will weigh down the rights of Americans trying to make a success of themselves through the sweat of their own brow.

Many feel that their voices can not, and will not, be heard on this issue. As Members of Congress, it's our job to make sure that this stone is shattered and those voices are not only heard, but pushed to the forefront.

Several of our colleagues have answered this call and introduced pieces of legislation which we think could make a positive impact on the situation. However, these measures apply only to specific projects which have federal funding attached to their completion. While this is a great effort the fact is it does not go far enough. These measures have a loophole which localities may try to exploit. Each of these pieces of legislation take actions against specific projects in which the power of eminent domain is abused. The funding "shell-game" that would follow any federal action would see localities moving local and private funds into projects which are questionable all the while continuing to receive federal funding for other projects related to other economic development.

In order to address this issue, I, along with several of my colleagues here today, introduced the Strengthening The Ownership of Private Property, or STOPP Act. This bill confronts this issue head on with legislation to stop this practice in its tracks. This legislation would take much more comprehensive approach in preventing state and local entities from wrongly taking private property.

The first step is to make local governments follow the same guidelines imposed upon the federal government by the Uniform Relocation Act in instances where eminent domain powers are abused. This measure provides that the federal government must not only provide fair compensation for the property taken, but also cover the costs of relocation for any business or home which must move. Currently, local entities don't have this restriction and are only subject to this law if

there are federal funds used for the project.

The second, and more substantial step, would be to withhold ANY federal economic development funds to localities which choose to take property for private commercial development. This measure would not make it illegal for entities to continue their practices, but would make them think twice by forgoing any federal funding for any project should they proceed. Under the other measures which have been introduced, local entities could use private or local funding when pursuing eminent domain of this type, however, under our bill they would have to think twice before pursuing this practice.

We think this bill strongly discourages governmental entities from moving forward with trading citizens dreams for taxes. The STOPP Act is the least we can do, a measure with teeth, a measure for average citizens, a bill to correct a far reaching decision with horrific consequences. I commend Chairman Pombo and Ranking Member Rahall for their interest in moving forward quickly on this important legislation. I also commend Chairman Pombo for his never-ending fight for the private property owners of our great nation. I would also like to thank my lead cosponsor Rep. Herseth for her strong advocacy on behalf of those who may be adversely impacted by this decision. Last I would like to thank my colleagues from every end of the political and ideological spectrum who have come together to endorse and support this piece of legislation to protect the American property owner.