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SCHAKOWSKY RAISES QUESTIONS, CONCERNS ABOUT KELO DECISION

**MUST ENSURE LAND SEIZURES DO NOT DISPROPORTIONATELY AFFECT
LOW-INCOME FAMILIES, MINORITIES**

WASHINGTON, DC - U.S. Representative Jan Schakowsky, ranking member on the House Subcommittee on Commerce, Trade, and Consumer Protection, today raised questions about the Kelo v. New London Supreme Court decision of June 23rd that authorized local governments to seize private property for development as long as the newly developed property would benefit the community. Representative Schakowsky emphasized the need for such development to directly benefit the entire public, for those who lose their property to be justly compensated, and for protections to ensure that low-cost housing is maintained and that low-income and minority populations are not disproportionately affected by eminent domain seizures.

The full text of Representative Schakowsky's opening statement is below:

Kelo decision issued on June 23, 2005, held that "economic development" can be a "public use" under the Fifth Amendment's Takings Clause. Essentially, the court held that a private developer may take homes and put the property on which they sit to "public use" - as long as the development plan would provide some benefits to the community, such as creating new jobs or increasing tax revenues.

The Court's decision approving the government's taking of private property for commercial development has been met with strong disapproval by the American public. According to a Wall Street Journal/NBC News poll: "In the wake of the court's eminent domain decision, Americans overall cite 'private property rights' as the current legal issue they care most about." And according to an American Survey poll conducted in July among 800 registered voters nationwide, "Public support for limiting the power of eminent domain is robust and cuts across demographic and partisan groups. Sixty-percent of self-identified Democrats, 74 percent of independents and 70 percent of Republicans support limits." Indeed, in response to this decision, legislators in at least 35 states, including Illinois, are considering changes to eminent domain laws to prevent the taking of private land for private development because they argue the Kelo decision went too far in taking private property.

However, local governments, including my home town, the City of Evanston, Illinois, stand by

the Kelo decision, citing that federal law should not constrain their ability to decide when to use the power of eminent domain for the benefit of their community. Few would question that there is a legitimate role for eminent domain. It is allowed by the Constitution provided the condemnation is for a "public use" and it is a vital and necessary tool for local governments that must find land for public uses such as roads, schools, and public utilities.

Because of the potential harm and good that will result from the Kelo decision, I believe we need to thoroughly examine all consequences of the decision and whether further Congressional action is needed.

This is a serious issue, and a timely debate, beyond the simple resolution of disapproval that we passed, is necessary. In the aftermath of Hurricanes Katrina and Rita, the Gulf Coast will be the center of a colossal rebuilding effort costing an estimated \$200 billion. We may see an increased use of eminent domain and the takings clause to rebuild blighted and flood-devastated areas. What we learned from Katrina is not just the failure of government to respond to a natural catastrophe, but the failure to respond to people living without opportunity and in poverty. It will be a shame if we fail once again to protect the poor and the vulnerable, which could happen if eminent domain is abused by government officials as a way to provide favors to selected businesses.

Today, we will hear from the NAACP about how the history of eminent domain shows that poor, minority neighborhoods are specifically targeted and minorities and the elderly are disproportionately displaced when takings occur. I am concerned about how eminent domain invariably diminishes lower-cost housing and replaces it with either businesses or higher cost housing. This reduces the supply of affordable housing in the area and drives up prices, making it more and more difficult for the underprivileged, racial and ethnic minorities and the elderly to live in the neighborhoods they call home. Additionally, we need to discuss whether compensation in eminent domain cases is fair, especially if those who are displaced are unable to find comparable housing they can afford.

Even Justice John Paul Stevens, who wrote the Kelo decision for the 5-justice majority, has said publicly he has concerns about the results of Kelo. Justice Stevens recently told the Clark County, Nevada Bar Association that if he were a legislator instead of a judge, he would have opposed the results of his own ruling by working to change current law. Justice Sandra Day O'Connor and the other dissenting justices also raised serious concerns with the case and claimed that pursuant to the decision, "nothing is to prevent the State from replacing any Motel 6 with a Ritz Carlton, any home with a shopping mall, or any farm with a factory." Specifically, Justice O'Connor states that "the government now has the license to transfer property from those with fewer resources to those with more."

Considering the broad implications of the Kelo decision, I look forward to hearing from the witnesses today about how eminent domain can be used to help or hurt the property rights and the wellbeing of the public, especially those who may be vulnerable to the abuses of eminent domain.