

In the wake of the Supreme Court's *Kelo vs. New London* decision, state and local governments are taking action to restrict the use of eminent domain for economic development purposes. To assist elected officials in these efforts, Reason Foundation has made available a variety of tools that can serve as a starting point toward eminent domain reform. Based upon the Institute for Justice's model eminent domain legislation, these documents offer sample legislation and resolutions to curb eminent domain abuse, while also allowing public-private partnerships to thrive.

Model Charter Provision or Ordinance for Local Governing Body

The following three provisions may be adopted as amendments to a municipal charter or added to municipal code. The first and second provisions do essentially the same thing, while the third provision can be adopted separately or with either provision one or two. A number of cities are considering adopting provisions similar to the first and second types of provision. The language in the second model provision is modeled after the language of the statute that permitted the condemnations in the Kelo case. The third type of provision, prohibiting transfer to private parties, has been adopted by Mesa, Arizona.

Prohibiting Eminent Domain for Economic Development

Notwithstanding any other provision of law, neither this City nor any of its subdivisions shall use eminent domain to take private property without the consent of the owner for economic development.

Economic Development--The term "economic development" means any activity to increase tax revenue, tax base, employment, or general economic health, when that activity does not result in (1) the transfer of land to public ownership, such as for a road, hospital or military base; (2) the transfer of land to a private entity that is a common carrier, such as a railroad, utility, or tollroad; or (3) the transfer of property to a private entity when eminent domain will remove a harmful use of the land, such as the removal of public nuisances, removal of structures that are beyond repair or that are unfit for human habitation or use, or acquisition of abandoned property.

Prohibiting Eminent Domain for Private Business

Notwithstanding any other provision of law, neither this City nor any of its subdivisions shall use eminent domain to take private property without the consent of the owner to be used for private commercial, financial, retail, or industrial enterprise, except that property

may be transferred or leased (1) to private entities that are public utilities or common carriers such as a railroad or tollroad; and (2) to private entities that occupy an incidental area within a public project, such as a retail establishment on the ground floor of a public building.

Prohibiting Transfer of Condemned Property to Private Parties

Notwithstanding any other provision of law, private property acquired through eminent domain without the consent of the owner shall not be dedicated, sold, leased in substantial part, or otherwise transferred to a private person, partnership, corporation, or any other entity for a period of ten (10) years following the acquisition of the property by the City, except that property may be transferred or leased (1) to private entities that are public utilities or common carriers such as a railroad or tollroad; and (2) to private entities that occupy an incidental area in a public project, such as a retail establishment on the ground floor of a public building.