

RESOLUTION NO. 2005-06  
OF THE BOARD OF COMMISSIONERS  
OF LAPORTE COUNTY, INDIANA

Whereas, the United States Supreme Court ruled on June 23, 2005 in the case of *Kelo v. City of New London* by a vote of five to four that local governments can utilize the power of eminent domain to force a private landowner to sell his or her land to make way for private commercial development, and

Whereas, the Fifth Amendment of the U.S. Constitution specifically declares that government cannot deprive a citizens of “life, liberty or property without due process of law” and

Whereas, the Fifth Amendment “takings” clause has historically been limited to special circumstances - namely public uses only - and required “just compensation” to property owners when such property was taken for public uses, and

Whereas, the undersigned do believe that there may be certain circumstances where a clear public need is demonstrated whether it be for a school, a road, or a hospital where eminent domain may be the only alternative available for government to accomplish such considered public purposes, and

Whereas, the undersigned believe that to extend the use of condemnation and eminent domain for private commercial development is an unwarranted intrusion and extension of government, and

Whereas, LaPorte County has become more active in various economic development and

**job creation endeavors, including but not limited to initiation of a county economic development corporation and county redevelopment commission and various individual projects all of which involve willing sellers and willing buyers, and**

**Whereas, the undersigned wish to state that while county government will assist various economic development efforts, the power of eminent domain will not be exercised to assist some corporation or private entity to force a private landowner to sell his or her property when they do not wish to do so, and**

**Whereas, the undersigned concur fully with Justice Sandra O'Connor who stated in her dissent to *Kelo v. New London* that with the majority's decision, "the beneficiaries are likely to be those citizens with disproportionate influence and power in the political process, including large corporations and development firms." She further stated that "government now has license to transfer property from those with fewer resources to those with more."**

**Whereas, the undersigned are particularly concerned about the plight of the Plaintiffs in *Kelo*, some 15 owners of property who refused to sell their riverfront land, to make way for a luxury hotel and a facility for a large pharmaceutical corporation. One of the homeowners had extensively remodeled her home and wanted to stay for her home's view of the riverfront. Another was born in her house in 1918 and had lived there all her life. Furthermore, other owners of stores and homes had already fled the 90-acre neighborhood in question because of the pending threat of eminent domain proceedings.**

**Whereas, in the judgment of this Commission, the taking of private land by eminent domain for a private commercial enterprise cannot be consistent with the Founding**

**Fathers' intent, and**

**Whereas, current Indiana law at I.C. 36-7-14, I.C. 36-7-14.5 and I.C. 36-7-15.1 permit eminent domain proceedings for those areas deemed "blighted" and there is a need for clear, unmistakable direction from the legislature to prevent such "takings" for private purposes, and**

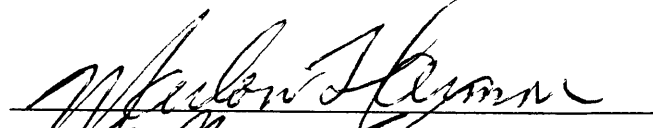

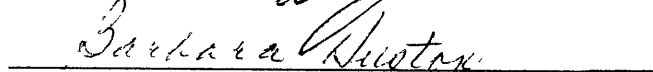
**Whereas, the Indiana General Assembly passed House Enrolled Act 1063-2005 providing for an Interim Study Committee to assess and evaluate eminent domain statutes and proceedings in Indiana,**

**NOW THEREFORE BE IT RESOLVED THAT THE LAPORTE COUNTY COMMISSION STANDS FORCEFULLY BEHIND THE RIGHT OF PROPERTY OWNERS TO QUIET ENJOYMENT OF THEIR PROPERTIES WITHOUT THE FEAR OR THREAT OF EMINENT DOMAIN PROCEEDINGS BEING INITIATED FOR PRIVATE DEVELOPMENT. WHILE RESERVING THE RIGHT OF EMINENT DOMAIN IN THOSE RARE INSTANCES WHERE SUCH MAY BE NECESSARY FOR A CLEAR PUBLIC PURPOSE SUCH AS A SCHOOL OR A ROAD OR A HOSPITAL, WE WILL VIGOROUSLY OPPOSE ANY EFFORTS TO UTILIZE ANY BRANCH, ENTITY OR SUBDIVISION OF COUNTY GOVERNMENT TO ACCOMPLISH EMINENT DOMAIN FOR PRIVATE COMMERCIAL DEVELOPMENT. WE STAND READY TO CONTINUE TO WORK ON JOB CREATION AND ECONOMIC DEVELOPMENT BUT ONLY BETWEEN A WILLING BUYER AND A WILLING SELLER OF PRIVATE PROPERTY.**

FURTHERMORE, WE SUPPORT ANY EFFORTS BY THE INDIANA LEGISLATURE  
TO PROTECT PRIVATE PROPERTY RIGHTS AND TO CURTAIL THE THREAT OR  
EXPANSION OF EMINENT DOMAIN PROCEEDINGS FOR PRIVATE  
COMMERCIAL DEVELOPMENT.

APPROVED AND ADOPTED THIS 19<sup>th</sup> DAY OF JULY, 2005.

BOARD OF COUNTY COMMISSIONERS OF  
LAPORTE COUNTY, INDIANA

Attest: 