

The Next Step in Eminent Domain Reform: SB 474 Ensuring Adequate Compensation

Senate State Affairs

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Texas Public Policy Foundation

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What Started It All: 2005

Kelo v New London



A Decade of Reform

- The Texas Legislature has recognized and addressed many problems with eminent domain
- 2005: SB 7 by Janek
- 2007: HB 2006 by Wooley; HB 1495 by Callegari
- 2009: SB 18 by Estes; HJR 14 by Corte
- 2011: SB 18 by Estes
- 2013: SB 655 by Birdwell

A Decade of Opposition: 2005

- *Kelo* “simply confirms what cities have known all along: under the Fifth Amendment to the U.S. Constitution, economic development can be as much a ‘public use’ as a road, bridge, or water tower.” – Texas Municipal League

A Decade of Opposition: 2007 HB 2006 by Woolley

WITNESS LIST

HB 2006

Senate Committee Report

State Affairs

May 16, 2007 - 8:00 AM

AGAINST:

Gorski, Ted (City of Fort Worth), Fort Worth, TX
Pitchinson, Michael (Texas Conference of Urban Counties), Austin, TX
Soard, Robert (Harris County), Houston, TX
Turner, Frank (City of Plano), Plano, TX
Forbes, Scott (Texas Ports Association), Houston, TX
Gaster, Talia (Travis County Commissioners Court), Austin, TX
Kearns, Dennis (BNSF Railway), Austin, TX
Mendez, Mark (Tarrant County), Fort Worth, TX
Olson, Kym (El Paso Corp), Houston, TX
Pineyro, Ylda (San Antonio River Authority), San Antonio, TX
Rocha, Susan (City of Round Rock), San Antonio, TX
Smith, Andrew (City of San Antonio), San Antonio, TX

WITNESS LIST

Land & Resource Management Committee

March 21, 2007 - 8:00 AM or upon final adjourn./recess

HB 2006

Against: Deal, Matthew C. (Metropolitan Transit Authority (Houston METRO))
Lee, Donald (Texas Conference of Urban Counties)
Mosley, Christopher (City of Fort Worth)
Wood, William E (City of San Antonio.)
Against: Burke, John (Texas Rural Water Association)
Davenport, David (Canyon Regional Water Authority)
Igo, Shanna (Texas Municipal League)
Kelley, Terry (Self and Johnson County Special Utility District)
Tredway, CJ (Central Harris Co. Regional Water Authority)
Turner, Frank F (City of Plano)

A Decade of Opposition: 2009 SB 18 by Estes

WITNESS LIST

SB 18

Senate Committee Report

State Affairs

March 30, 2009 - 10:00 AM

AGAINST:

Soard, Robert (Harris County), Houston, TX

Brazaitis, Gregory (Energy Transfer Company), Houston, TX

Eckstein, Deece (Travis County), Austin, TX

Mendez, Mark (Tarrant County), Ft. Worth, TX

Igo, Shanna (Texas Municipal League), Austin, TX

A Decade of Opposition: 2013 HB 20 by Kolckhorst

WITNESS LIST

Land & Resource Management Committee

April 15, 2013 - 2:00 PM or upon final adjourn./recess

HB 20

Against:

Friedland, Eric (City of san antonio)
Gorski, Ted (City of Fort Worth)
Houston, Scott (Texas municipal league)
Pichinson, Michael (Texas Association of Counties)
Soard, Robert (Harris County)

Coyle, Jeff (City of San Antonio)
Ellmer, Mindy (Tarrant Regional Water District)
Mendez, Mark (Tarrant County)
Olderog, Ronald (City of Austin)
Pomeroy, Cory (Texas Oil and Gas Association)
Tagliabue, Tom (City of Corpus Christi)

A Decade of Opposition: 2013

HB 1250 by Frank & SB 829 by Huffman

WITNESS LIST

HB 1250

HOUSE COMMITTEE REPORT

Land & Resource Management Committee

March 4, 2013 - 2:00 PM or upon final adjourn./recess

Against :

Allison, Jim (County Judges and Commissioners Association of Texas)
Bresnen, Steve (North Harris County Regional Water Authority)
Houston, Scott (Texas municipal league)
Lee, Donald (Texas Conference of Urban Counties)
Mam, James (Texas pipeline assoc.)
Allday, Marty (Enbridge Energy)
Baker, Lindsey (City of Denton)
Cannon, Thure (Texas Pipeline Association)
Ellmer, Mindy (Tarrant Regional Water District)
Israelson, Mark (City of Plano)
Nugent, Patrick (Texas pipeline association)
Patterson, TJ (City of Fort Worth)
Ruckel, Grant (Energy Transfer)
Sander, Lindsay (Markwest Energy)

Adequate Compensation is the Next Step in Eminent Domain Reform

- Already addressed:
 - Public use v. public purpose
 - Procedural safeguards
 - Urban blight
- It is up to the Texas Legislature
 - Condemnors won't do it
 - Courts won't do it

SB 474 Will Address the Problem of Inadequate Compensation

- SB 474 is an incremental step toward improving property rights; it is not radical and does not require condemnors to offer more than fair market value
- Texas already widely uses fee shifting, e.g. awarding attorney's fees, to address access to the courts
 - Loser pays: 2003 & 2011
 - Texas Property Code
- Many other states already use fee shifting; a few examples: Arkansas, Idaho, Iowa, Louisiana, Michigan, Minnesota, Montana, Nebraska
- There is a great need to address the current incentives for condemnors to make below-market offers
- Property owners in the current system can never be made whole
- The Foundation fully supports the reforms in SB 474

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