

SENATE RESOLUTION
8738

By Senators Rasmussen, Kastama, Pridemore, Regala, Spanel, Franklin, McAuliffe, Fraser, Prentice, Kline, Rockefeller, Eide, Fairley, Keiser, Hargrove, Weinstein, Thibaudeau and Brown

WHEREAS, Members of the public have expressed concern regarding a recent United States Supreme Court decision, *Kelo v. New London* (No. 04-108 (June 23, 2005)), which upheld, under the United States Constitution, a Connecticut city's exercise of eminent domain for the purpose of taking private property for urban renewal and economic development; and

WHEREAS, In light of the United States Supreme Court decision in *Kelo v. New London*, the legislature finds that Article 1 of the state Constitution, entitled "Declaration of Rights," among its specific protections of individual rights in the state of Washington, establishes limitations upon the use of eminent domain in section 16, providing that private property shall not be taken for private use and that courts shall determine whether an alleged public use really is public, without regard to legislative assertions; and

WHEREAS, The state Supreme Court has interpreted the state Constitution and state law to say that land can not be taken by eminent domain when the principal purpose is to sell the land to private parties for industrial development. *Hogue v. Seattle*, 54 Wn.2d 799, 341 P.2d 171 (1959); and

WHEREAS, The state Supreme Court has held that a state urban renewal law is constitutional when it requires specific use restrictions that accomplishes the public purpose of eliminating blighted conditions. *Miller v. Tacoma*, 61 Wn.2d 374, 378 P.2d 464 (1963); and

WHEREAS, The state Supreme Court has held that private property can not be taken for the purpose of promoting private retailing that is part of a large-scale project that combines public and private uses. *In re Petition of Seattle*, 96 Wn.2d 616, 638 P.2d 549 (1981); and

WHEREAS, The state Supreme Court has held that the amount of land taken can be no more than would be necessary solely for the public component of a project. *State ex rel. Washington State Convention & Trade Center v. Evans*, 136 Wn.2d 811, 966 P.2d 1252 (1998); and

WHEREAS, The United States Supreme Court has held that state Constitutions can place greater restrictions on the power of eminent domain than the United States Constitution; and

WHEREAS, Other states that did not have the same greater restrictions already in place as the state of Washington did at the time of the *Kelo* decision have been seeking to adopt similar restrictions;

NOW, THEREFORE, BE IT RESOLVED, That the Senate recognize, reaffirm, and support the restrictions against the use of eminent domain to take private property for private use or economic development, as set forth in the Washington state Constitution, Washington state Supreme Court decisions, and in chapters 8.04, 8.08, 8.12, 8.16, and 8.20 RCW of Washington state laws.