



International Municipal  
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April 26, 2000

The Honorable Orrin G. Hatch  
Chair, Committee on the Judiciary  
U.S. Senate  
224 Senate Dirksen Office Building  
Washington, D.C. 20510

The Honorable Patrick J. Leahy  
Ranking Member, Committee on the Judiciary  
U.S. Senate  
152 Senate Dirksen Office Building  
Washington, D.C. 20510

Re: S. 1028, the Citizens Access to Justice Act of 1999

Dear Chairman Hatch and Ranking Member Leahy:

I am writing on behalf of the International Municipal Lawyers Association (IMLA) to express our strong opposition to S. 1028, the Citizens Access to Justice Act of 1999.

IMLA is a professional organization of city and county attorneys representing more than 1400 local governments. I am the current IMLA President, Solicitor of Willingboro Township, New Jersey, and General Counsel for the New Jersey League of Municipalities.

In the 105<sup>th</sup> Congress, IMLA was one of the first of many local government groups to oppose similar legislation, and we remain adamantly opposed to these proposals. Like its predecessor, S. 1028 would undercut traditional local authority over land use disputes by allowing developers and other landowners to bypass important local procedures, sidestep state courts, and sue local communities in federal court far earlier in the land use planning process. The bill also would prohibit federal courts from deferring to state courts on many delicate issues of state and local law. The net effect would be an inappropriate and unnecessary shift of authority over local land use disputes away from local communities and state courts to federal courts. This is exactly the wrong way to go.

Local governments resolve the overwhelming majority of land use disputes without litigation. We prefer consensus over confrontation, compromise over conflict. However S. 1028 would go in precisely the opposite direction, encouraging litigation over negotiation. By raising the threat of a federal court lawsuit far earlier

in the land use process, S. 1028 would put neighboring property owners and the community at large at a severe disadvantage. Because key provisions probably would be struck down as unconstitutional, the bill would create more confusion, disruption, and delay for all interested parties.

Local governments firmly believe that landowners should be treated fairly in the local land use process and receive just compensation when their property is taken under the Fifth Amendment. If local procedures need reform in any particular community, those reforms should take place at the local level, not through S. 1028's one-size-fits-all approach that would shift the balance of power toward developers in every community in the country.

More than 150 years ago, Alexis de Tocqueville wrote that "municipal institutions constitute the strength of free nations." IMLA strongly urges you to respect the historic municipal control over local land use issues.

Sincerely,

A handwritten signature in cursive script that reads "William John Kearns, Jr." The signature is written in dark ink and is positioned above the printed name.

William John Kearns, Jr.  
IMLA President