



NATIONAL CONFERENCE of STATE LEGISLATURES

The Forum for America's Ideas

Paul S. Mannweiler
House Republican Leader
Indiana
President, NCSL

John B. Phelps
Clerk of the House
Florida House of Representatives
Staff Chair, NCSL

William T. Pound
Executive Director

September 22, 1999

The Honorable Neil Abercrombie
United States House of Representatives
1502 Longworth House Office Building
Washington, DC 20515-1101

Dear Representative Abercrombie:

I write on behalf of the National Conference of State Legislatures (NCSL) in opposition to H.R. 2372, the Private Property Rights Implementation Act of 1999. The bill, NCSL believes, does not effectively protect property rights but does threaten principles of constitutional federalism. It would substantially federalize land use law. If H.R. 2372 were enacted, decisions about zoning and land use increasingly would be made by federal judges, not local communities.

The bill would reverse established Supreme Court decisions by allowing plaintiffs to file premature suits in federal court without fully resolving land use policy issues at the local level. Land use cases would be forced into federal court without the development of a record of all the information, identified by the Supreme Court, needed for a federal judge to decide whether a regulation results in an improper taking of private property under the Fifth Amendment. In effect, the bill asks federal judges to decide issues of local public policy and state law. It would sow confusion in our Fifth Amendment jurisprudence.

NCSL strongly supports individual property rights. State and local land use regulations protect property rights by ensuring that the investments and rights of enjoyment of neighboring property owners are protected from inappropriate developments like factories or toppers bars in residential neighborhoods. State and local laws are intended to protect the rights of all property owners.

NCSL is committed to preserving our system of constitutional federalism. The Framers did not intend to centralize all decision-making over domestic policy in the federal government, let alone the federal courts. Our grassroots democracy is based on the premise that state and local communities will make most policy decisions without dictates or mandates from the federal government. Land use regulation is about as essentially local as any area of public policy. Let's keep it that way.


Denver
1560 Broadway, Suite 700
Denver, Colorado 80202
Phone 303.850.2200 Fax 303.863.8003

Washington
444 North Capitol Street, NW, Suite 515
Washington, D.C. 20001
Phone 202.624.5400 Fax 202.737.1069

Website www.ncsl.org

This Congress has a record of devolving authority to the states and limiting intrusions by the national government into the lives of individuals and the decisions of local communities. To be consistent with the philosophy of devolution and in recognition of the intent of the Framers and the spirit of the Tenth Amendment, NCSL asks you to oppose H.R. 2372.

Sincerely,

A handwritten signature in cursive script that reads "Paul S. Mannweiler".

Paul S. Mannweiler
House Republican Leader, Indiana
President
National Conference of State Legislatures (NCSL)