

August 16, 2006

The Honorable Steve Chabot
Chairman, House Subcommittee on the Constitution
Room B-336 RHOB
Washington, DC 20515

The Honorable Jerrold Nadler
Ranking Member, House Subcommittee on the Constitution
Room B-336 RHOB
Washington, DC 20515

Dear Chairman Chabot and Ranking Member Nadler:

The American Planning Association supports private property rights as guaranteed by the U.S. Constitution and the land-use regulations that protect those rights for the benefit of all property owners. Our American system – arguably, the best in the world – is one of both property rights and property responsibilities and one in which rights are reciprocal among property owners. We urge you to oppose H.R. 4772, The Private Property Rights Implementation Act of 2005:

- H.R.4772 essentially federalizes local land-use decisions by allowing for the premature federal adjudication of takings claims. The bill undermines local control of land use and zoning decisions. Land use and zoning are the historic responsibilities of local government and local citizens. The bill would allow corporations and developers to burden localities with federal litigation if a developer's proposal is not approved. Merely the threat of this costly and time-consuming litigation would be enough to force many small communities to acquiesce to developers' demands. By changing the ripeness standard for takings claims, federal courts could become a primary refuge. Federal courts could be pulled into local land use disputes even before landowners and local officials were given the opportunity to consider alternatives and compromises.
- H.R. 4772 undermines the ability of local governments to control locally undesirable land uses. Instead of protecting private property rights, H.R. 4772 would actually endanger the private property rights of ordinary citizens while offering special advantages to developers and corporations willing to pay the costs of federal litigation. Local governments would be hampered in their efforts to protect the property rights of citizens from a range of undesirable land uses and environmental threats; Land use issues from adult entertainment and liquor stores to hog farms and incinerators would all be subject to federal court review, rather than local determination.

The Honorable Steve Chabot
The Honorable Jerrold Nadler
June 6, 2006
page 2

- H.R. 4772 creates an unfair presumption that local and state governments operate in bad faith when considering land-use or zoning cases. Currently, local governments resolve the vast majority of land use disputes without litigation. But H.R. 4772 makes sweeping, one-size-fits-all national changes under the misguided assumption that cities, counties and states are somehow denying and delaying justice. APA firmly believes that landowners receive fair treatment and just compensation when their property is taken under the Fifth Amendment. Procedural reform in these areas should take place at the local and state level. This bill only encourages federal litigation as a means of making local land-use decisions.

Thank you for your leadership and consideration. We look forward to working with you to ensure that federal, state and local governments continue to protect private property rights as guaranteed by the U.S. Constitution and the land- use regulations that protect those rights for the benefit of all property owners.

If you have questions or seek additional information, please contact Jason Jordan or Bridget Hennessey at (202) 234-1353.

Sincerely,

W. Paul Farmer, FAICP
Executive Director and CEO