



A nonprofit organization improving justice through leadership and service to courts

July 11, 2006

The Honorable James Sensenbrenner, Jr.
Chairman, House Judiciary Committee
2449 Rayburn House Office Building
Washington, D.C. 20515

The Honorable John Conyers, Jr.
Ranking Member, House Judiciary
Committee
2426 Rayburn House Office Building
Washington, D.C. 200515

Dear Chairman and Ranking Members:

On behalf of the Conference of Chief Justices ["CCJ"] I write concerning H.R. 4772, the Private Property Rights Implementation Act of 2005. The legislation, as you know, substantially alters the procedures by which parties who allege an unlawful taking of property can seek relief in federal courts. Significantly for the CCJ, the bill would overturn the decades-old doctrine that requires federal courts to decline consideration of takings claims until claimants seek to resolve their disputes at the state and local level. *Williamson County Regional Planning Commission v. Hamilton Bank*, 473 U.S. 172 (1985).

In 1998 the Conference adopted CCJ Resolution X, In Opposition to Premature Federal Intervention in State Property Rights Proceedings [copy enclosed]. In adopting that Resolution, CCJ was expressing its strong opposition to legislation pending in the 105th Congress which was the close policy kin to H.R. 4772. Now as then, CCJ believes takings cases under state law should be decided first by state courts. The CCJ has traditionally opposed Congressional measures that drastically change traditional state/federal balances. H.R. 4772, if adopted, would severely undermine ripeness and abstention requirements aimed at ensuring land use decisions are initially made by those most familiar with the property at issue and with the local public policies. There is no record that state courts generally fail to render fair decisions in land use cases. In the absence of such a record, the Congress should reject H.R. 4772's assault on prudent principles of federalism.

Headquarters
300 Newport Avenue
Williamsburg, VA 23185-4147
(800) 616-6164

Court Consulting
707 Seventeenth Street, Suite 2900
Denver, CO 80202-3429
(800) 466-3063
www.ncsconline.org

Washington Office
2425 Wilson Boulevard, Suite 350
Arlington, VA 22201-3326
(800) 532-0204

Accordingly, the Conference requests that you consider our opposition before taking any further action on the Private Property Rights Implementation Act of 2005. We also appreciate your making this letter and Resolution X a part of the official record on H.R. 4772. If you desire further CCJ input, please reach me at (317) 232-2550 or Judge Gregory E. Mize (Ret.), Judicial Fellow at the National Center for State Courts, at (703) 841-6932.

Sincerely,

Randall T. Shepard

Randall T. Shepard
Chief Justice
Supreme Court of Indiana
&
President
The Conference of Chief Justices

Enclosures (2)

cc: The Honorable Steve Chabot
The Honorable Jerrold Nadler



Headquarters
300 Newport Avenue
Williamsburg, VA 23185-4147
(800) 616-6164

Court Consulting
707 Seventeenth Street, Suite 2900
Denver, CO 80202-3429
(800) 466-3063
www.ncsconline.org

Washington Office
2425 Wilson Boulevard, Suite 350
Arlington, VA 22201-3326
(800) 532-0204