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September 28, 2006

Dear Representative:

On behalf of a broad coalition of diverse interests concerned about protecting and improving the quality of life of the nation's communities, we strongly urge you to oppose H.R. 4772, the *Private Property Rights Implementation Act of 2005*. Far from achieving its purported objective of protecting property rights, this legislation would only undermine vital locally-adopted protections for homeowners and communities and impose tremendous costs on taxpayers.

Like the takings bills introduced in the 105th and 106th Congresses, H.R. 4772 is designed to help developers sue cities and towns over land use issues in federal court. The legislation would encourage developers to bypass State courts and local resolution procedures, where most land use disputes are now resolved. The inevitable result will be a flood of litigation the cost of which will be borne by local taxpayers. In a moment of candor, The National Association of Home Builders has said this kind of legislation would serve as "a hammer to the head" of local officials by making it harder to enforce land use, zoning, environmental, and other local rules.

The threat is not limited to land use rules. An array of other protections essential to overall quality of life could be at risk. Existing guidelines and regulations related to public health, housing opportunity, air and water quality, disability access rules, historic preservation laws, and workplace safety regulations could be challenged.

H.R. 4772 is actually more extreme than prior versions of this legislation, which were wisely rejected. Previous federal takings bills sought to change the procedures governing challenges to land use legal rules. The current bill would change those procedures while adding new substantive provisions that would greatly expand the liability of local governments (as well as the federal government) for enforcing land use regulations. These new provisions would impose enormous financial burdens on taxpayers as well as undermine local communities' ability to protect their citizens.

We support the protections for homeowners and citizens enshrined in the Constitution and buttressed by years of legal precedent. This legislation goes far beyond those protections and raises a host of concerns about its ultimate constitutionality. The bill aims to change takings law as articulated by the federal courts by redefining the constitutional rules that apply to permit conditions, subdivisions, and claims under the Due Process Clause. The existing rules, developed over many decades, allow courts to strike a fair balance between takings claimants, neighboring property owners, and the public. Further, the practical result of the bill would be the undermining of a host of local rules that actually protect property values.

Much has been made of the need for eminent domain reform in the wake of last year's Supreme Court decision in *Kelo v. City of New London*. While proponents of this legislation will undoubtedly invoke the *Kelo* decision, this bill does not address, limit, alter, or affect the use of eminent domain in any fashion. In fact, this bill would threaten private homes by undermining zoning regulations that protect our neighborhoods.

Far from preserving the rights of property owners, H.R. 4772 constitutes a threat to the nation's communities and homeowners. The legislation would undermine fairness and predictability in development, undercut local land use and environmental protections, and impose enormous costs on local citizens. We ask you to reject H.R. 4772.

Sincerely,

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