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## HR 4772 Talking Points

H.R. 4772, the “Private Property Rights Implementation Act of 2005,” would:

- Encourage developers to file costly, intrusive takings lawsuits against cities and towns in federal court. Under current law, takings claimants must generally pursue their claims in the State courts which, as the Supreme Court has said, “have more experience than federal courts do in resolving the complex factual, technical, and legal questions related to zoning and land-use regulations.” The bill would permit developers to bypass the State courts, reviving a proposal that Congress already has rejected several times before.
- Impose enormous new financial liabilities on taxpayers by overriding the Takings and Due Process Clauses as interpreted by the U.S. Supreme Court. The bill would establish expansive new liabilities for regulatory actions, reviving one very controversial feature of the “Contract with America.” In fact, the bill is more extreme than the Contract with America; while the Contract with America only applied to the federal government, this bill would impose new legal liabilities directly on local governments across the U.S.
- Undermine zoning and other protections for homeowner and communities. The bill would make it easier for developers to sue cities and towns in court and grant developers special legal rights against local governments. As a spokesman for the National Association of Homeowners said, the bill would allow developers to apply a “hammer to the head” of local governments, weakening homeowner and community protections.
- Impose a costly, unfunded federal mandate on local governments. The bill includes no mechanism for Congress to reimburse cities and towns for the costs that this legislation would impose by forcing them into premature legal battles in federal court and exposing them to new liabilities. The bill would impose similar burdens on federal taxpayers but does not address how these new costs would be addressed either.
- Do nothing to address public concerns generated by the Kelo case. H.R. 4772 in no way limits, alters, or affects the use of eminent domain for economic development, the subject of the Kelo case. In fact, the bill would undermine zoning regulations that protect private homes. Thus, many who are concerned about Kelo also oppose this legislation.
- Raise serious constitutional problems that might make the entire bill ineffective. The provisions of the bill attempting to alter the procedures for bringing takings lawsuits and creating new liability standards are probably unconstitutional because they contradict the Supreme Court’s interpretations of the Takings and Due Process Clauses. Thus, the bill would almost certainly fail to accomplish its objectives, and instead would lead to additional uncertainty, confusion, and needless litigation, to the detriment of all.