

Honolulu, Hawaii

March 2, 2006

RE: H.B. No. 2233  
H.D. 1

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Third State Legislature  
Regular Session of 2006  
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 2233 entitled:

"A BILL FOR AN ACT RELATING TO CONDEMNATION,"

begs leave to report as follows:

The purpose of this bill is to protect landowners and their property rights by prohibiting the taking of private property through the use of eminent domain for urban or economic development purposes that would result in the creation of nongovernmental uses or improvements.

The Hawaii Association of Realtors testified in support of this bill. The Department of the Corporation Counsel of the City and County of Honolulu opposed this measure. The Department of Planning and Permitting of the City and County of Honolulu offered comments.

In *Kelo v. New London*, (04-108) June 23, 2005, the United States (U.S.) Supreme Court held that the takings clause of the Fifth Amendment of the United States Constitution does not necessarily prohibit the use of eminent domain for economic development purposes to be carried out by a private party. However, the U.S. Supreme Court in *Kelo* also emphasized the ability of states to place additional "public use" requirements for government takings that exceed federal baselines. Your Committee finds that while this bill is in response to *Kelo*, concerns have been raised that the original provisions of this



measure may be overly broad and may preclude legitimate uses of the power of eminent domain that may eventually also involve private developers or other private parties, such as affordable housing or mass transit.

Accordingly, your Committee has amended this bill by:

- (1) Deleting the purpose and findings section;
- (2) Exempting the Housing and Community Development Corporation of Hawaii, Hawaii Community Development Authority, Aloha Tower Development Corporation, and any other State or county public corporate entities from the provisions of this bill; and
- (3) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2233, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2233, H.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on  
behalf of the members of the  
Committee on Judiciary,



SYLVIA LUKE, Chair



