

Honolulu, Hawaii

April 5, 2006

RE: S.B. No. 2986
S.D. 2
H.D. 2

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 S.B. No. 2986, S.D. 2, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO EMINENT DOMAIN,"

begs leave to report as follows:

The purpose of this bill is to address the concern raised by *Kelo v. New London*, 125 S. Ct. 2655 (2005), in which the United States Supreme Court found that urban renewal or economic development may justify the government to condemn private property for use by another private entity, by:

- (1) Prohibiting the taking of private property by eminent domain if the taking is for the purpose of urban or economic development that would result in the development of nongovernmental retail, office, commercial, residential, or industrial development or use and specifically excludes developments that are integral and required elements of public purpose projects, such as affordable housing and mass transit; and
- (2) Giving the former owner of the condemned land, if the land ceases to be used for the stated public use, the right to reacquire the property for the fair market value before it may be sold or transferred.



C & H Farms, National Federation of Independent Business, and Small Landowners of Oahu and Small Landowners Association of Hawaii supported this bill. Hawaii's Thousand Friends, Hui o Malama Kaka'ako Paka, Hawaii Association of Realtors (HAR), Save Our Kaka'ako Coalition, and a concerned individual supported the intent of this measure. The Department of Transportation, Department of Planning and Permitting of the City and County of Honolulu, and the Department of the Corporation Counsel of the City and County of Honolulu opposed this measure. The Hawaiian Electric Company, Inc., Hawaiian Electric Light Company, Maui Electric Company, Hawaii Farm Bureau Federation, National Association of Realtors on behalf of HAR, and a concerned individual offered comments.

The extensive turnout and testimony received on this measure impressed your Committee and revealed that the issues surrounding eminent domain are complex. Your Committee finds that due to the complexity of the issue and the number of affected parties, legislation regarding eminent domain should be more carefully examined through a task force.

Accordingly, your Committee has amended this bill by replacing its contents with provisions that:

- (1) Establish an Eminent Domain Task Force (Task Force) within the Legislative Reference Bureau, responsible for:
 - (A) Reviewing issues related to the use of eminent domain for economic development or renewal;
 - (B) Recommending proposed legislation relating to possible additional statutory limitations on the use of eminent domain by the State or counties; and
 - (C) Presenting its findings and recommendations to the Legislature no later than 20 days prior to the convening of Regular Session of 2007;

and

- (2) Take effect on July 1, 2006.



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 S.B. No. 2986, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2986, S.D. 2, H.D. 2.

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



SYLVIA LUKE, Chair



