



News Release

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Florida State University Scholar Says Florida's Property Owners Are Not Protected

Florida is getting national attention because of Riviera Beach's attempt to displace 6,000 residents to make way for a billion-dollar waterfront yachting and housing complex. The phenomenon of using eminent domain, the government power to seize private property, to further economic development is causing a lot of Floridians to ask, "Could that really happen?"

In a new study by The James Madison Institute, FSU College of Law Professor J.B. Ruhl surveys the history of eminent domain law in Florida and in the context of the recent U.S. Supreme Court decision *Kelo v. City of New London*. He concludes that it is wishful thinking to believe that Florida's laws prohibit property takings for economic development.

"The Florida Supreme Court has not spoken directly on the question of whether the Florida Constitution prohibits *Kelo*-style takings, and no existing statutory provision expressly constrains local governments from engaging in economic development takings with substantial private involvement," Ruhl wrote.

According to Professor Ruhl, Florida has several options available that would serve to prevent the taking of property for economic development purposes:

- Enact a constitutional amendment providing that no private property shall be taken except with full compensation and for a public purpose, defined as a use which the public shall have the right to employ.
- Tighten the Community Redevelopment Act blight designation standards with substantive limits and procedural safeguards.
- Amend the Community Redevelopment Act to require that cities in all cases bear a much higher burden of proof to justify use of eminent domain; e.g. require cities to demonstrate that the CRA initiative furthers a "critical public need," that without use of eminent domain the city would have been "incapable of achieving the public purpose" of the initiative, and that any involvement of private development interests in the initiative is justified only by the city proving a "lack of practicable alternatives."

J.B. Ruhl is Matthews & Hawkins Professor of Property at the Florida State University College of Law. He is a nationally recognized expert and has published numerous award-winning articles. He teaches Environmental Law, Land Use and Property. Before teaching, Ruhl was a partner in the law firm Fulbright & Jaworski, L.L.P in Austin, Texas.

A copy of *Property Rights At Risk? Eminent Domain Law in Florida After The U.S. Supreme Court Decision In Kelo v. City of New London* is available at www.jamesmadison.org. **For a hard copy or to interview Professor Ruhl, call Matt Warner at (850) 383-4633.**

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