

NATIONAL BOATING FEDERATION POSITION STATEMENT REGARDING EMINENT DOMAIN

Whereas, in the wake of the Supreme Court's *Kelo vs. New London* decision, state and local governments are taking action to restrict the use of eminent domain for economic development purposes. The court said that the public use clauses of the U.S. and state constitutions allow the use of eminent domain for economic development purposes, even if the only public benefit is an increase in tax revenues and a general improvement in the local economy.

Whereas, there have been numerous examples of the taking of private property by public authorities for private economic development purposes which has the broad effect of eliminating and/or limiting the availability of private watercraft access available to the recreational boater.

The National Boating Federation advocates passage of legislation by state and local governments furthering the following policy statements:

A. Prohibiting Eminent Domain for Private Business:

Notwithstanding any other provision of law, neither this State nor any political subdivision thereof or any other condemning entity shall use eminent domain to take private property without the consent of the owner to be used for private commercial enterprise, except that property may be transferred or leased (1) to private entities that are common carriers such as a railroad, utility, or tollroad; (2) to private entities that occupy an incidental area within a public project, such as a retail establishment on the ground floor of a public building; (3) the use of eminent domain eliminates a threat to public health or safety, such as the removal of public nuisances, removal of structures that are beyond repair or that are unfit for human habitation or use, or acquisition of abandoned property. Whenever property is condemned and will be used by a private party, the condemnor must establish by clear and convincing evidence that the condemnation of the property is necessary.