WASHINGTON STATE ATTORNEY GENERAL

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AG-Request Legislation—2007 Session

Eminent Domain Notice Legislation

BACKGROUND

Private property is a very important constitutional right, especially when the government attempts to take a person's home. The United States Supreme Court's recent decision in *Kelo v. City of New London* highlighted the problems with the aggressive acquisition of homes by eminent domain.

Here in our state, many people were surprised when the state Supreme Court decided in *Miller v. Sound Transit* that a government agency was not required to provide actual notice to a property owner of its pending decision to condemn his or her land, but rather could simply post the meeting agenda on a web site.

THE PROBLEM

In most cases, a local government is not required to notify a property owner or the general public of a pending open public meeting at which it will decide whether to take his or her property by eminent domain.

While some governments voluntarily provide varying degrees of notice, there is no requirement to notify the property owner. Currently, the public has no meaningful notice of a pending eminent domain decision.

AG-REQUEST EMINENT DOMAIN NOTICE LEGISLATION

- Requires a local government considering the acquisition of specific properties by eminent domain to:
  - Send a certified letter (costing $4.64) to the property owner of record on the county tax rolls notifying him or her of the open public meeting to decide the issue, and
  - Publish a short newspaper legal notice before the meeting.
- To prevent small technical notice violations from thwarting legitimate eminent domain proceedings, allows a judge to determine that a local government attempted in good faith to provide the notices and provides that when an owner is not listed on county tax rolls that newspaper notice is sufficient.
- Requires letter and newspaper notice to be provided before a local government can go to court to obtain the property by eminent domain.