



WASHINGTON STATE ATTORNEY GENERAL  
**ROB MCKENNA**  
AG REQUEST LEGISLATION - 2008 SESSION

## EMINENT DOMAIN

### THE PROBLEM

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At a news conference in January 2007, Attorney General Rob McKenna, the Washington Policy Center and the Institute for Justice Washington Chapter spotlighted the plight of several Washington property owners who were victims of eminent domain abuse:

- **Kwan Fong**, an immigrant from mainland China, is building a business in Southeast Seattle, but the City of Seattle is considering declaring much of the Rainier Valley - including his property - “blighted” under Washington’s Community Renewal Law.
- **John Fujii**, whose family owns the Sinking Ship parking garage in Seattle’s Pioneer Square, saw his business permanently condemned by the Seattle Monorail, when it only needed the property temporarily. The Monorail hoped to sell the property for a profit once it was done with it - but the project fell through.

At this news conference, McKenna announced plans to convene a special task force to review eminent domain laws and identify necessary changes to eliminate such abuses. The Eminent Domain Task Force has met several times this interim and continues to work on recommendations.

### BACKGROUND

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The state’s Community Renewal law allows municipalities to eliminate “blight” using the power of eminent domain. The statutory definition of “blight” includes any physical deterioration, inappropriate uses of land, diversity of ownership, high levels of unemployment or poverty, crime, as well as factors affecting welfare and morals. Blight is defined as an “area” affected by those conditions as well.

This means that blight is not specific to certain parcels, but could include a neighborhood that has some blighted parcels and some non-blighted parcels. A municipality could use eminent domain authority under this law to condemn perfectly non-blighted parcels so long as the community renewal area includes some blighted parcels.

Some members of the Eminent Domain Task Force believe the community renewal law as currently written strongly encourages municipalities to redevelop community renewal areas using private enterprise. They believe the blight statute allows what is explicitly prohibited by the state Constitution Article 1, Section 16 – Private property shall not be taken for private use.

In a 1963 Washington Supreme court case, the court ruled 5-4 that allowing a private use does not mean the blight law is unconstitutional under Article 1, Section 16—which could put Washingtonians at the same risk for eminent domain abuse that occurred in the infamous US Supreme Court case of *Kelo v. City of New London*.

### EMINENT DOMAIN LEGISLATION

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The Attorney General’s Office will seek legislation to:

- Redefine “blight” narrowly to apply to specific properties and not general areas that might include non-blighted land.
- Require the publication of a pamphlet in plain language explaining eminent domain.