

## RESOLUTION

*Whereas*, the Takings Clause of the Fifth Amendment to the United States Constitution states “nor shall private property be taken for public use without just compensation”;

*Whereas*, the Fourteenth Amendment extended the application of the Fifth Amendment to every state and local government;

*Whereas*, the Takings Clause of the Fifth Amendment has historically been interpreted and applied by the United States Supreme Court to be conditioned upon the necessity that government assumption of private property through eminent domain must be for the public use and requires just compensation;

*Whereas*, the opinion of the majority in *Kelo v. City of New London* justifies the forfeiture of a person’s private property through eminent domain for the sole benefit of another private person rather than for public use, and permits local government to condemn private property for private development;

*Whereas*, Justice Sandra Day O’Conner, a native El Pasoan and graduate of Austin High School, condemned the *Kelo* decision - and abusive governments which threaten to take homes and small businesses for the benefit of well-connected developers in order to generate higher property taxes - in these words:

**The beneficiaries of eminent domain are likely to be those citizens with disproportionate influence and power in the political process, including large corporations and development firms. As for the victims, the government now has license to transfer property from those with fewer resources to those with more. The Founders cannot have intended this perverse result.**

*Whereas*, in response to the public outcry in the wake of the *Kelo* opinion, the Texas Legislature, meeting in Special Session, enacted Senate Bill 7, a statutory prohibition against using the power of eminent domain for economic development, which was signed into law with immediate effect on November 18, 2005;

*Whereas*, Senate Bill 7 was a valiant start and the El Paso County Commissioners Court commends the Texas Legislature for its trail-blazing effort to curb eminent domain abuse as a result of the dreadful decision in *Kelo*;

*Whereas*, all levels of government have a Constitutional responsibility and a moral obligation to always defend the property rights of individuals and only to execute the power of eminent domain for the good of public use and contingent upon the just compensation of the individual property owner;

*Whereas*, no American, rich or poor, should have to live under the constant threat of a questionable taking of his or her property by the government;

*Whereas*, the El Paso County Commissioners Court is concerned that local governments within the State of Texas are using loopholes in existing law to exercise the power of eminent domain for private development;

*Whereas*, the El Paso County Commissioners Court has determined that additional reforms are necessary in order to ensure that the authority granted to local governments to condemn private property is not abused; *and*,

*Whereas*, the El Paso County Commissioners Court has determined that it is in the best interest of the citizens of the State of Texas as well as El Paso County that further legislation be enacted by the Texas Legislature and that a Constitutional Amendment to the Constitution of the State of Texas be adopted limiting this authority;

**NOW, THEREFORE, BE IT RESOLVED BY THE EL PASO COUNTY COMMISSIONERS COURT**, that the Texas Legislature is hereby requested to enact further legislation and initiate a Constitutional Amendment for adoption by the citizens of the State of Texas which (i) enshrines a traditional definition of public use and limits eminent domain authority in the state to projects that are truly for public use and enjoyment; and, (ii) prohibits the authority of local governments within the State of Texas to condemn private property for private development purposes.

The County Clerk is authorized and directed to transmit copies of this resolution to the Governor and Lieutenant Governor of the State of Texas, the Speaker of the Texas House of Representatives and the Members of the Texas Legislature representing El Paso County.