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## ‘Blight’ Gunking Up Post-Kelo Eminent Domain Reforms



Few Supreme Court opinions have riled up the masses in recent years like [2005's Kelo v. City of New London](#). In the Kelo ruling, the court held that governments can take property for the purpose of promoting “economic development,” a broader justification than the court had previously allowed for a “taking” under the Fifth Amendment. [Rudy Giuliani slammed the ruling](#). And a group shortly after the ruling came down [proposed “taking” the farmhouse](#) of Justice David Souter, who signed

onto the majority opinion.

In the years following, more than 40 states passed laws aimed at limiting the power of so-called “eminent domain,” including measures to remove “economic development” as a justification for seizing property. Click [here](#) for a story out today by the WSJ's Nathan Koppel.

But Koppel writes that in many states, the effort to blunt the impact of the Kelo ruling has proven elusive. The problem is that many states still authorize the seizure of property that is deemed “blighted,” a term often defined so broadly that it enables “virtually any property to be condemned,” says Ilya Somin, a professor at George Mason University School of Law.

As a result, property-rights advocates say, states should, and some are trying to, adopt legislation that redefines blight.

Shortly after the Kelo ruling came down, Texas passed legislation designed to limit the sort of seizures authorized by Kelo, but carved out an exception for blight. But some Texas lawmakers are wondering whether to go further, and have introduced legislation that would require blight determinations to be made on a property-by-property basis.

Marvin Rosenbaum, whose family runs a bus company in El Paso, supports the proposed Texas measure. In 2006, he says, he learned that one of his company's bus terminals was in a broad swath of downtown El Paso that was declared blighted, as part of the city's effort to revitalize the area with condominiums, hotels and stores. “We aren't blighted at

all,” Rosenbaum says. “Blight should be determined parcel by parcel so that you don’t suffer due to the neglect of others.”

Jim Roos (pictured) has been a long-time warrior against the use of eminent domain. Click [here](#) to see an interview with Roos from the documentary “Begging for Billionaires,” which is critical of eminent domain and is due to premiere May 2 at the Minneapolis-St. Paul International Film Festival.

*The original article can be found on the Wall Street Journal Online website at the following URL: <http://blogs.wsj.com/law/2009/04/30/blight-getting-in-the-way-of-post-keelo-eminant-domain-reforms/tab/print/>*