

Power of eminent domain expanded by court's rulings

Homes can be seized for private development projects

By Charles Lane
The Washington Post

Washington — Cities that bulldoze people's homes to make way for shopping malls or other private development, a divided Supreme Court ruled Thursday, giving local governments broad power to seize private property to generate tax revenue.

The landmark 5-4 ruling provided the strong affirmation state and local governments had sought for their increasing use of eminent domain for urban revitalization.

Opponents including property-rights activists and advocates for elderly and low-income urban residents argued that forcibly shifting land from one private owner to another, even with fair compensation, violates the Fifth Amendment to the Constitution, which prohibits the taking of property by government except for "public use."

But Justice John Paul Stevens, writing for the majority Thursday, cited past cases in which the court has interpreted "public use" to include not only such traditional projects as bridges and highways but also

slum clearance and land redistribution.

He concluded that a "public purpose" such as creating new jobs in a depressed city also can satisfy the Fifth Amendment.

Stevens' opinion provoked a strongly worded dissent from Justice Sandra Day O'Connor, who wrote that the ruling favors the most powerful and influential in society and leaves small-property owners little recourse.

Now, she wrote, the "specter of condemnation hangs over all property. Nothing is to prevent the State from replacing any Motel 6 with a Ritz-Carlton, any home with a shopping mall, or any farm with a factory."

The redevelopment program at issue in Thursday's case — New London, Conn.'s plan to redevelop acres of waterfront land into office buildings, upscale housing, a marina and other facilities near a new \$300-million research center being built by pharmaceutical giant Pfizer — also was expected to generate hundreds of jobs and, city officials say, \$730,000 in property-tax revenue.

New London, with a population of about 24,000, is reeling from the 1996 closing of

the Naval Undersea Warfare Center, which had employed more than 1,500.

In the disputed neighborhood, known as Fort Trumbull, most residents sold out and their homes were demolished, but owners of 15 homes on 154 acres of the proposed site had refused to go.

The Connecticut Supreme Court upheld the city's plan, so the homeowners, represented by lawyers from the libertarian Institute for Justice, appealed the case to the U.S. Supreme Court.

Stevens was joined in the majority by Justices Anthony Kennedy, David Souter, Ruth Bader Ginsburg and Stephen Breyer.

O'Connor was joined in her dissent by Chief Justice William Rehnquist and Justices Antonin Scalia and Clarence Thomas.

The Associated Press contributed to this report.

More online: Find the U.S. Supreme Court's complete ruling on eminent domain.
www.washingtonpost.com