

## Bill Wayne for 121<sup>st</sup> District

Position Paper

July 1, 2006

### Property Rights

Property Rights are the basis for our free enterprise system, which in turn is the basis for our national prosperity. The property owner should be able to use the property as he/she sees fit, as long as the use does not damage the property or rights of his/her neighbors.

Missouri, despite recent Eminent Domain reform, threatens our property rights in many ways. As a Libertarian, I believe that these threats must be contained and eliminated. The main threats come from Eminent Domain, Tax Incentives (TIF, TDD, etc.) and Zoning.

**Eminent Domain** is the Government's right to take property for public use, after just compensation to the owner. Historically, it has been reserved for government projects such as public buildings, military installations and public roads. Recently, however, governments have used the power to take property for "economic development" projects, even delegating the power to semi-private development groups. This interpretation was recently upheld by the U.S. Supreme Court in *Kelo vs New London*, much to the dismay of citizens across the country.

The Missouri Legislature, in its last session, reacted to *Kelo* by passing a bill to limit the taking of property for economic development and to provide better compensation for those who lose property. However, the reforms did not go far enough. Taking for "economic development" is only forbidden if that is the sole purpose of the taking, leaving a huge loophole for rapacious local governments. Homeowners get increased compensation, depending on how long they've owned the property, but this does not extend to small businesses. In addition, there is no consideration of the income tax aspects of a "taking." While some property owners may be able to avoid capital gains taxes because of their age or by using a "1031 exchange," many will end up with a significant tax liability and increased debt service costs.

***I propose:*** Close the loophole and ban all takings for economic development purposes. Strictly define blight, as well. Require the "just compensation" to include all economic impact on the property owner and tenants (taxes, lost rent, lost business). If the Fair Tax does not replace the punitive income tax system, waive state tax on any gains from the forced sale.

**Tax Incentives** distort the marketplace and should only be allowed if needed to protect Missouri's competitive position with other states. No incentives of any sort should be allowed for relocation of a business within Missouri. The legislature considered, but did not act on, reforms to tax incentives.

***Tax Increment Financing (TIF)*** is a particularly pernicious incentive, in which the government granting the TIF gives away property tax money due not only to it, but also to other taxing bodies (schools, libraries, hospitals, etc.). TIF also allows areas to be declared “blighted” for the purposes of tax incentives, without any real standards of what constitutes “blight.”

***I propose:*** Limit TIF by forbidding one governmental unit from giving away tax money belonging to another one without the agreement of the other unit’s elected or appointed board. Set specific standards for what constitutes “blight.” Forbid its use for commercial (retail) development.

***Transportation Development Districts (TDD)*** are private entities that are set up as mini-governments for their own property. They are allowed to charge an additional sales tax to cover the cost of “transportation improvements” to their commercial/retail developments. Only the property owner(s) in the TDD are allowed to vote on it. While private property owners should have the right to charge whatever the market will bear to recover their costs and make a profit, the TDD uses the power of the state to force its tenants to collect and pay the additional tax. Most objectionable is when a TDD includes a pre-existing business and adds a tax to purchases there.

***I propose:*** Whenever a TDD wishes to include an existing business, it should be approved by all voters in the city where the existing business is located. TDDs should provide a public report of all income and expenditures and prominently post the additional tax on their premises to provide shoppers information needed to make a choice.

***Zoning:*** Currently, Missouri law requires that the citizens of a county must vote on whether or not rural areas should be subject to planning and zoning. This provides a safeguard against the frequently arbitrary decisions of appointed zoning boards. Bills introduced in the last legislature would have made it easier to establish rural zoning; these did not pass.

***I propose:*** Allow elections to establish zoning only by petition and require that the overall plan be subject to voter approval before it goes into effect. Allow only those affected by the zoning to vote on zoning issues and zoning commissioners (that is, only those voters who live in unzoned areas). Require all zoning commissioners to be elected so they are answerable for their decisions.