

Testimony of Fred Jenkins
Before the Senate Judiciary Committee of the U.S. Congress
September 20, 2005

I thank Chairman Specter and the rest of the Senate Judiciary Committee for the opportunity to testify about legislation to stop federal funding to local governments that abuse eminent domain for private development.

My name is Fred Jenkins, and I am the Pastor of St. Luke's Pentecostal Church in North Hempstead, New York. After years of meeting in a rented basement and saving up our money, we were able to find a permanent home. But it was taken from us by the North Hempstead Community Development Agency, which uses funding from HUD, for private retail development. Six years later, the place we wanted to call home sits empty. Our experience has happened countless times around the country, and the *Kelo* decision has further encouraged local governments to continue seizing private property for private development.

I'd like to share my story with you, to help you understand how eminent domain affects real people.

I founded St. Luke's in 1979, and over the years, our congregation grew to almost 100 parishioners. Since 1990, St. Luke's has rented the basement of a building in the Prospect Avenue neighborhood of North Hempstead. In the early 1980s, we began raising and saving money to purchase a permanent home for our beloved church. For years, members sacrificed and contributed money and time to our building fund. We're certainly not a wealthy church, but everyone pitched in.

We began looking for a building to call our own in 1994. Some time that same year, I spoke to the pastor of Jeremiah Baptist Church, who wanted us to purchase their land that had a mostly-completed church structure on it. Jeremiah had all of the permits for their building, but not the financing to finish its construction.

We'd looked hard for a perfect place for our church, and we all agreed that this was it. Nothing else fit St. Luke's needs like this building. The size would fit all 100 of us, and the price was manageable. It was where most of my parishioners live, and in the area where we help people. My congregation has always been very active in our community. We pay for members' funerals, help the homeless, assist parishioners with drug counseling, and provide rent money and heating oil to needy families.

We purchased the land at 822 Prospect Avenue and the almost-completed church building that December. Before purchasing the building and getting our mortgage, we obtained a list of exactly what we would need to do to get all the necessary permits to finish construction. The Commissioner of the Department of Building even shared our enthusiasm over our project.

The congregation was so excited to finally have a permanent home. We were eager to start building. People went down to the site and began cleaning up. We spent considerable money responding to the list of things we needed to do to get the permits. We had completed almost everything and submitted our application for a new building permit just four months after we bought the property. We also took out a mortgage of more than \$207,000 – we are still making mortgage payments.

In 1998, we were denied our building permit because we couldn't provide enough off-street parking. Apparently, the NHCDA was developing the building across the street from ours with retail, and the town thought there would be too many cars around our church – this suddenly became our problem to solve.

For a year and a half, we fought to get our permit. Meanwhile, not one person from the Town told us that our property was going to be condemned. During this time, the congregation became very discouraged. We were still in a rented space in the basement of a retail building that was too small to accommodate the congregation. We lost around 50 members.

In November 1999, we received a letter from the NHCDA offering to buy our property for \$80,000. This was \$50,000 less than what we had paid for the property and far less than our mortgage. This was the first time we heard that the Town had a plan to take our property. That March, the Town officially seized our new home.

We had no idea that our new building had been slated for redevelopment in 1994. Nobody bothered to tell us this during the discussions about the building permits or when we were struggling to get the parking variance. While the Commissioner of the Department of Building told us how excited he was over our redevelopment of the property, he not once mentioned that the Town planned on seizing it. Even when the Executive Director of the NHCDA testified against issuing us the parking variance, he never pointed out that St. Luke's was only wasting its time and money because he planned on condemning the property whether or not we solved *their* parking problem.

When St. Luke's tried to object to the condemnation, the NHCDA argued that our opportunity to object had been lost in 1994 – before we even owned the property! At that time in New York, property owners only had 30 days to object to a redevelopment plan after it was passed, even if their property wasn't yet condemned. We filed a federal lawsuit, challenging the New York procedures that allowed us to lose our property. After the NHCDA took over our new church and during the federal lawsuit, we discovered that the time limit didn't even apply to us – but it was too late. The state court refused to reopen our case. After years of fighting, we lost our church.

St. Luke's has always taken care of the community. And in return, we were kicked off our property and it was taken for retail development. It is now being used to store building materials for the construction going on across the street. And we're still in the basement of the space we've rented for years, back at square one, but with half the

congregation and with broken hearts. We're still paying mortgage on the property that was seized from us, and we have yet to receive compensation.

We never would have purchased the property had we known the Town planned to acquire it for retail development. We were so excited when we found that half-built church for sale, right in our own neighborhood. After two decades of saving, my parishioners were so proud to finally be able to move into our own church. The Town seized that excitement and pride when it seized our new home and forced us to stay in our rented basement.

Eminent domain abuse affects real people. Homeowners, businessmen and churchgoers need the protections guaranteed by the Constitution that their property is their castle. The Supreme Court failed to enforce these protections, but you have that opportunity now. This country is full of people like my parishioners, who work hard and save up to buy something to call home. I ask you to please stop funding local governments like North Hempstead that use federal dollars to take away homes, businesses, and churches for private gain.

Thank you very much for the opportunity to testify before this committee.