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June 24, 2005

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IMPACT OF SUPREME COURT TAKINGS DECISION ON THE POOR RAISES QUESTIONS & CONCERNS

Yesterday, the Supreme Court decided in Kelo v. New London (No. 04-108), that a state or local government's exercise of its eminent domain power in furtherance of a government economic development plan satisfied the Constitution's "public use" requirement. The case involved the claims of nine private landowners who objected to the city's plan to condemn their property and transfer it to other private parties. The Court held that while the government cannot simply transfer a piece of property from one private party to another, it can determine that an economic development plan will provide significant public benefits and justifies exercise of the takings power. The Court accorded great deference to legislative determinations of what constitutes a public benefit, and recognized that economic development that benefits the community as a whole can meet that standard.

Maria Foscarinis, Executive Director of the National Law Center on Homelessness & Poverty (NLCHP), expressed concern that communities may infer from the Court's decision that they may use the power of eminent domain whenever doing so may increase a community's tax base.

"The impact will depend very much on how 'public benefit' is defined -- and whether it includes the interests of all community members, including low-income people." NLCHP, she said, will be monitoring state and local implementation of the Supreme Court's decision to ensure that the benefits of government takings accrue to the poor and homeless, as well as private developers.