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A Threat To Property Owners

Little is considered as sacred as the right to own property. That right was undermined this week by the decision of the Connecticut Supreme Court in favor of the New London Development Corp.

By a vote of 4-3, the court upheld the plans of the nonprofit agency overseeing the ambitious Fort Trumbull redevelopment project. The decision clears the way for the agency to take the remaining homes of residents who have lived there for years and even generations. Much of the land will be developed for private use.

The court interpreted broadly the meaning of eminent domain, the power of the government to seize property for the public good. The decision puts all property owners on notice that government-backed developers with deep pockets can take their land with no proof of public benefit.

This case, brought by seven property owners who refused to sell to the New London Development Corp., should be

appealed to the U.S. Supreme Court, which has not looked at eminent domain in this context for half a century.

At one time, the concept of taking land for the public good was clear-cut. Everyone understood that the government could wrest property for roads, schools and hospitals and to relieve blight. But the addition of economic development as a rationale has muddled the criteria, leaving too much leeway for abuse of government power.

New London's economic development project was keyed to the expansion of Pfizer pharmaceuticals. The condemned land on the Thames River is slated for a privately held hotel and conference center, marina and upscale housing, which have yet to materialize. Pfizer and prospective developers, who would lease the acreage for \$1 a year, are likely to gain from the project. Whether the entire city will also benefit is subject to speculation.

The three dissenters - Justice Peter T. Zarella, Chief Justice William J. Sullivan and Justice Joette Katz - are right in saying that the plan did not offer sufficient guarantees of public benefit to warrant the extreme measure of taking private homes. As the three point out, the proposed transfer of ownership of the condemned land to private sources leaves any future public benefit under the control of private interests.

Justice Zarella made a compelling case for a clear and convincing standard and a higher level of proof of public benefit. "The tremendous social costs of the takings ... are difficult to quantify but nonetheless real," he wrote. "The fact that certain families have lived in their homes for decades and wish to remain should not ... be summarily dismissed as part of a cost-benefit analysis...." Amen.