

Court taking its time to make an eminent decision

Any day now, Michael H. Sahn expects the Supreme Court may change one aspect of how he does business.

Sahn, the founding member of Sahn, Ward and Baker of Garden City, concentrates his practice in the areas of zoning, land use planning, real estate law and transactions, corporate and environmental law. So he is one of many attorneys eagerly awaiting the outcome of *Kelo vs. City of New London*, a case which may change the parameters for how government can take private property for public good – known in the legal community as eminent domain or “taking.”

Court records show when attorneys argued the case Feb. 22, justices were considering whether New London, Conn., had the right to take private property “for the sole purpose of ‘economic development’ that will perhaps increase tax revenues and improve the local economy.”

The court is not considering takings cases that eliminate slums or blight, but is evaluating overall protections private landowners have under the

Fifth Amendment’s requirement that they receive “just compensation” when the property is needed for “public use.”

“Traditionally, local municipalities have invoked the powers of eminent domain for governmental public works projects like roads, parks, bridges and public buildings,” Sahn said. “These are obvious examples of using the power of eminent domain for public use. Condemnations have also been undertaken, and judicially approved, to remove blighted areas and to further urban renewal projects. The *Kelo* case goes much further.

“In *Kelo*, the Connecticut Supreme Court ruled that taking private property from one land owner and transferring it to a private developer for purposes of a large-scale land development that would increase local tax revenues, provide jobs and improve the local economy was a valid public use,” he continued. “This decision represents a broad view and interpretation of the Constitution’s public use requirement.”

Soon, it will be evident if the court agrees with Sahn.

– Heather Fletcher