

To strengthen
and promote
cities as centers
of opportunity,
leadership, and
governance.

March 12, 2002

Dear Senator:

On behalf of the 138,000 local elected officials represented by the National League of Cities (NLC), I am writing to express concerns with the current investor-to-state provisions in H.R. 3005, the Trade Promotion Authority (TPA) legislation adopted in the Senate Finance Committee late last year.

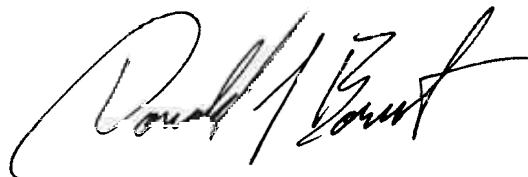
As you know, NLC has long opposed legislative proposals to require additional compensation beyond the continually evolving judicial interpretations of the Fifth Amendment of the U.S. Constitution, as well as proposals to alter the established administrative and judicial procedures for resolving takings claims. Although H.R. 3005 does include language instructing the U.S. Trade Representative to "seek to establish standards for expropriation and compensation for expropriation, consistent with United States legal principles and practice," we do not believe that this language is strong enough to ensure that future trade agreements do not circumvent or erode domestic takings law.

Specifically, we are concerned that future trade negotiations, particularly a hemispheric Free Trade Area of the Americas (FTAA), could include provisions that expand the definition of a regulatory taking. As evidenced by disputes under Chapter 11 of NAFTA, vague expropriation language has allowed new avenues of recourse for foreign investors to challenge current state and local ordinances that provide for a balanced approach to local zoning regulations and protect the health and safety of our citizens.

Municipal governments rely on their power to regulate land-use related activities in their communities and zoning ordinances provide a powerful tool for local elected officials to experiment with new regulatory approaches to land use. TPA legislation should not accomplish what past legislative efforts to expand domestic takings law and bypass state and local procedures have failed to achieve. We urge you to support efforts to strengthen H.R. 3005 so that current standards are not compromised by a new set of foreign investor rights.

If you have any questions or comments, please contact Scott Shrum in our office at 202-626-3033.

Sincerely,



Donald J. Borut
Executive Director

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