

OPINION

Just compensation?

By **Keenya Toney Justice**

Charlotte

This Fourth of July, as I watched the fireworks display with my family and listened to the patriotic songs with which we're all familiar, I was reminded of the significance of the day — the birth of our nation. I



Justice

paused for a moment and thought of our troops fighting overseas — both now and in the past — so others could experience the rights and freedoms that are the cornerstone of our democracy. Rights and freedoms that we may sometimes take for granted.

My thoughts then turned to how the rights of property owners in America have recently been curtailed by the Supreme Court as the "public use" limit on the state's power of eminent domain has been eroded. In the case involving residents of New London, Conn., retiring Justice Sandra Day O'Connor spoke for so many Americans when she wrote in her strong dissent, (now) "the specter of condemnation hangs over all property."

As an eminent domain attorney, I suppose I should be thankful as my firm and I stand to benefit from this recent decision, but I'm not. What greatly disturbs me is that I find that the court has nullified a fundamental principle of our Constitution: that the state can only take private property for public use, meaning the government must own the property or the public must have a legal right to use it. I chose this field of law because I believe that the taking of private property for public use (although necessary at times) is often unfair to the

property owner. It is my obligation and purpose to use the laws as they were intended to bring justice to my clients by demanding they receive, as the Constitution requires, "just compensation" for the property that the government has taken.

But what is just compensation?

Can people be truly compensated when the state forces them to leave the only home they have ever known? It makes me think of families who have been rendered homeless as a result of fire or other disaster; often lifelong

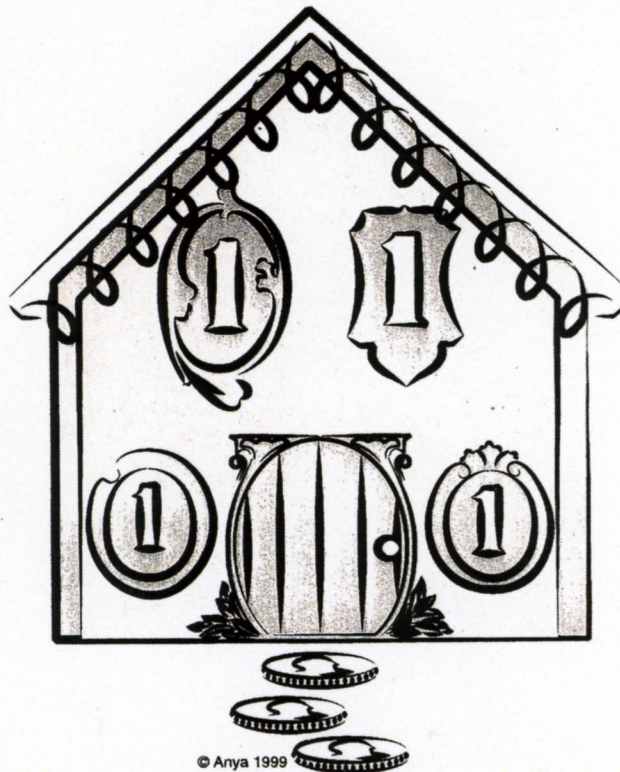
memories go up in smoke. However, victims of fire are usually insured and are thus compensated for their property. In fact, many use the money to rebuild their lives, often in the

Victims of eminent domain are forced to leave behind decades of memories, hopes and dreams.

same location. Yet, somehow to me, the randomness of disaster makes their despair less grievous as compared to the willful seizure of property by the government.

When I think about the victims of eminent domain — though they are granted time to salvage their most cherished possessions — they are forced to rebuild their lives in a new location and leave behind decades of memories, hopes and dreams and quite often a family legacy that cannot be replaced.

How can we, in this



wonderful democracy, let the state hold the knife to the throats of property owners while they are raped by private developers? As with other rapes, it is not a crime of passion, but one of power and, in this case, greed. To forcibly remove law-abiding, taxpaying owners of non-dilapidated property because the state decided that the current owner is underutilizing it is, simply, wrong.

In New London there is a site currently occupied by a home where generations of one family have lived continuously for over a century. And the developer — adding insult to injury — concedes that it may soon be nothing more than a parking lot.

So what is "just compensation?" Well, it's only money. But many property owners do not receive just compensation, as the eminent domain process is flawed and riddled with conflicts of interest. Most notably, the state, the entity taking the property, is also often the sole determinant of the property's value. So whatever just compensation is, I assure you it is not what the state says it is and, thankfully, we still have the right to have a jury of our peers, and not the state, decide.

Keenya Toney Justice is an eminent domain lawyer based in Charlotte. She earned her law degree and master's in business administration at the University of North Carolina at Chapel Hill.