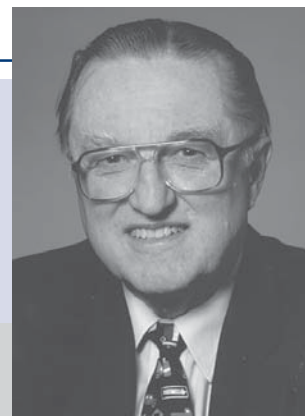


On March 28th, join us for
a discussion on the real estate outlook
featuring the experienced insight of

Dr. Anthony Downs

**Senior Fellow at
Brookings Institution**



Anthony Downs is a Senior Fellow at the Brookings Institution in Washington, D.C., a private, non-profit research organization specializing in public policy studies. Before that he was 18 years a member and then Chairman of Real Estate Research Corporation, a nationwide consulting firm advising private and public decision-makers on real estate investment, housing policies, and urban affairs. He has served as a consultant to major developers, to dozens of government agencies at local, state, and national levels (including the Department of Housing and Urban Development and the White House), and to many private foundations. Among those with whom he consults are Fannie Mae and NAIOP. He sits on several boards, including Massachusetts Mutual Life and General Growth Properties, Inc. Dr. Downs received a Ph.D. in Economics from Stanford University, and is the author or co-author of 22 books and over 400 published articles.

Don't miss this opportunity to hear the nation's foremost real estate and urban economist share key information on the probable direction of money and real estate markets.

Tuesday, March 28th

Sheraton Bloomington Hotel

Highways 494 & 100, Bloomington, Minnesota

7:15 a.m. Registration & Networking

7:45 a.m. Breakfast

8-9:30 Program

1.5 hours of continuing education applied for.

Pricing:

\$50 member registration in advance

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\$85 non-member at door registration

Register online at www.naiopmn.org

Eminent Domain: Take It or Leave It

by Katie Kieffer, United Properties

On February 14, Brian Blaesser, Esq., shared his expertise on the hot topic of eminent domain. Blaesser, a partner at Robinson & Cole LLP, is highly qualified to discuss this issue, and his tenacity with the law and his active involvement as appointed chair of NAIOP's National Task Force on Eminent Domain was apparent.

In the wake of the recent U.S. Supreme Court Decision of *Kelo v. City of New London*, eminent domain has been a point of high discussion and debate in the



BLAESSER

real estate industry and the general public. Blaesser began by explaining the background of Kelo, its practical ramifications, and the backlash of legislative initiatives to restrict the use of eminent domain spurred by the decision across the nation.

He was quick to point out that the media has misinformed the general public by repeatedly

presenting the Kelo decision as a major change in eminent domain law. On the contrary, Blaesser maintained that two landmark cases set the stage for the Kelo decision: *Berman v. Parker* (348 U.S. 26) and *Hawaii Housing Authority v. Midkiff* (467 U.S. 229). He said these two cases, "expanded

the definition of public use" and set the stage for much more deference to be given to what the legislature deems to be a public purpose. Blaesser helped attendees understand the background of eminent domain law by recapping

*eminent domain continued on
back page*

CORRECTION

The 100% occupancy rate in the East Bloomington/south of the river office market sector as stated in the January/February *Universe* is incorrect. The correct statistics are as follows: the vacancy rate is at its lowest point since 1998 at 11.7% and absorption is the highest in 10 years at positive 370,000 square feet.

eminent domain continued from page six

key events leading to the majority ruling in Kelo, where the U.S. Supreme Court declared that economic development is a public purpose in and of itself.

Blaesser commented on the dissent to Kelo, authored by Justice Sandra Day O'Connor. In the minority opinion, she declared that there is a distinction between "private benefit" and "incidental private benefit," the latter being insufficient to warrant the use of eminent domain. O'Connor felt that Kelo represented an instance of incidental private benefit, and was therefore wrongly decided. Blaesser countered O'Connor's dissent with the opinion of Justice Kennedy. Kennedy argued that a private benefit for an entity—such as the Pfizer company—would not necessarily eliminate a public benefit. Kennedy felt that the Kelo decision did not, therefore, constitute a case of "impermissible favoritism."

After outlining the Kelo decision, Blaesser commented on the current state of eminent domain law in Minnesota and across the nation by comparing it with the laws of Connecticut, where the Kelo case was based. Ultimately, Minnesota law is quite similar to Connecticut law and it has historically been deferential to the legislature. However, since the Minnesota Supreme Court is currently evenly divided on the issue of eminent domain, Blaesser predicted that we might see a new case before our state's Supreme Court soon. On a national level, Blaesser emphasized that several states "would do well to simply go back and revise blight statutes because they are currently outdated." He also noted several of the key concepts that are currently driving eminent domain legislation in the states, pointing out that many state legislatures are implementing new laws without first updating or eliminating similar laws that are already on the books. He warned that, "whether these laws are fair or accurate, they are springing up across the country."

Finally, Blaesser strongly encouraged all NAIOP members to stay informed and active with regard to eminent domain legislation because of the inevitable impact it will have on their businesses. ■

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