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Not So Private Property?: Florida Man Takes Eminent Domain Case to High Court

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As much as 40 percent of all land in the United States is already under some form of government control or ownership -- 800 million to 900 million acres out of America's total 2.2 billion acres.

*The government now appears poised to wield greater control over private property on a number of fronts. The battle over private property rights has intensified since 2005, when the Supreme Court ruled in the *Kelo v. City of New London* case that the government could take property from one group of private landowners and give it to another.*

Outraged over that ruling and a series of recent efforts by government to wield greater control over private property, citizens are fighting back. Fox News' Shannon Bream takes a fair and balanced look at the controversy in a three-part series.

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When Congress ruled in 1989 to expand the Everglades National Park in Florida, Gilbert Fornatora's home stood in the way.

Now, after having his private property condemned and seized by the government exercising eminent domain, Fornatora is appealing his case before the Supreme Court in an effort to prove his constitutional rights were violated.

Florida landowners claim that the federal government began pressuring local and state authorities in the 1960s and '70s to change zoning laws so they could more easily devalue and take private property in the expansion zone.

Congress then authorized the expansion of the Florida Everglades in 1989, igniting a heated feud between the government and Floridians whose homes bordered the national park -- a sweeping 1.5 million acre preserve of peaceful wetlands and wildlife.

The government "also put pressure on the local zoning board to do what's called 'down zone' the property, making it also worth less so that when they eventually did condemn it, they didn't have to pay as much in just compensation," said Ilya Shapiro, a senior fellow at the CATO Institute and one of the lawyers working on behalf of the homeowners.

"We think that this is a violation of the Fifth Amendment takings clause," Shapiro told Fox News.

The high court hasn't decided yet whether it will hear the appeal in the potentially landmark property rights case - 480 Acres of Land and Gilbert Fornatora v. U.S.

The Eleventh Circuit Court of Appeals, which ruled in favor of the government, said landowners like Fornatora could not prove that federal authorities manipulated zoning laws so to devalue the properties in question.

"A landowner must show that the primary purpose of the regulation was to depress the property value of the land or that the ordinance was enacted with the specific intent of depressing property value for the purpose of later condemnation," the court wrote in its 2009 decision.

Fox News' Shannon Bream contributed to this report.