

Eminent Domain – Lessons Learned & Best Practices

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Eminent Domain Decision

- June 23, 2005 – *Kelo v. City of New London*
- Other famous Supreme Court decisions: *Plessy v. Ferguson*, *Brown v. Board of Education*, *Roe v. Wade*
- Difference – *Kelo* made no new law
- Confirmed precedents back to 1954, *Berman v. Parker*



How the Press Portrayed *Kelo* Decision



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How the Press Reported *Kelo* Decision

Supreme Court Rules Cities May Seize Homes

“As a result, cities now have wide power to bulldoze residences for projects such as shopping malls and hotel complexes in order to generate tax revenue.”

- Associated Press, June 23, 2005

Justices Back Forced Sale of Property

“The 5-4 ruling against a small group of residents in New London, Conn., goes further than ever before in allowing government to invoke its power of “eminent domain” to seize private property from unwilling sellers.”

- Los Angeles Times, June 24, 2005



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How the Press Described *Kelo* Decision

"Supreme Court eminent domain ruling reverberates in California"
Sacramento Bee, July 22, 2005

"Property Rights on the Line"
Orange County Register, July 22, 2005

"Your Land is Their Land"
Oakland Tribune, August 25, 2005

"Californians Not Safe From Eminent Domain"
Pasadena Star-News, July 24, 2005

"Homeowners are Vulnerable"
Ventura County Star, July 28, 2005

"Lawmakers Take Aim at Eminent Domain"
Merced Sun-Star, September 8, 2005

"Eminently Unfair"
San Diego Union-Tribune, August 18, 2005

"It's Open Season on Private Property"
Los Angeles Times, July 27, 2005

"Blight? Yeah Right"
San Diego Union-Tribune, September 9, 2005

"Homeowners are Outraged by Threat of Demolition"
San Diego Union-Tribune, August 24, 2005

"Officials Scramble to Beef up Home Ownership Rights"
Palm Springs Desert-Sun, August 20, 2005



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What Happened in Wake of *Kelo*?

- 34 states passed laws restricting use of eminent domain in 2006
- 41 states have acted since *Kelo*
- Many eliminated use for “economic development” or private-to-private transfers of property



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Proposition 90 in California

November 2006

✓ **Defeated statewide
47.6% to 52.4%**



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It's a taxpayer **TRAP**

Proposition 98 & 99 in California

June 2008

Prop 98: 61.8% No, 38.5% Yes

Prop 99: 62.1% Yes, 38.0% No



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“Kelo is being used as a bloody shirt – waved around to create hysteria...”

- California State Assembly Member Dave Jones



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Public Opinion

- ◆ **Eminent Domain is not popular!**
 - Negative attitudes apply to all uses, including schools and roads
- ◆ **Voters perceive it is abused**



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Public Opinion

- ◆ **Voters want it reformed, not eliminated**
- ◆ **Voters distinguish its purposes, and do support its use for:**
 - revitalizing rundown areas
 - creating jobs
 - dealing with slumlords
 - sites of repeated serious code violations
 - sites of repeated criminal activity
 - cleaning contaminated properties



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Use of Eminent Domain by California Redevelopment Agencies

- Only entities allowed to use Eminent Domain to acquire property and convey to another private owner**
- Can not be used to acquire single-family, owner-occupied homes**
- Can not be used for economic development; only for removal of blight**
- Must be used only as last resort after negotiations**



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Use of Eminent Domain by California Redevelopment Agencies Facts v. Myths

- 79% of parcels were negotiated purchases
- 21% of parcels eminent domain commenced (resolutions of necessity passed)
- 2.8% (78 parcels) acquired through eminent domain
- 3 parcels were single-family, owner-occupied homes (2 were clouded titles)

* *Based on five-year study of redevelopment agency property acquisitions, covering 2,798 properties from Jan. 1, 2000 – Dec. 31, 2004*



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