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
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
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

*California Redevelopment Association*

*Redevelopment. Building Better Communities*
Proposition 90 in California
November 2006

✓ Defeated statewide
47.6% to 52.4%

California Redevelopment Association
Redevelopment. Building Better Communities

NO on 90
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
“Kelo is being used as a bloody shirt—waved around to create hysteria...”

- California State Assembly Member Dave Jones
Public Opinion

- **Eminent Domain is not popular!**
  - Negative attitudes apply to all uses, including schools and roads

- **Voters perceive it is abused**
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
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
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