

CITIES MAY CONDEMN PRIVATE HOMES TO MAKE WAY FOR COMMERCIAL DEVELOPMENT pdf

1: Minnesota cities adjust to losing the hammer of eminent domain - www.enganchecubano.com

No local government in Montana or South Dakota has condemned private property for private development in the past 30 years, and in North Dakota, only one community has taken that step in recent memory—Jamestown, which condemned land in to make way for a supermarket.

This is at the behest of educators and Gov. Olene Walker, who note the loss of revenue to schools from some redevelopment projects. Cities also are paying attention to *Kelo v. City of New London*, a case scheduled for arguments before the U. Supreme Court on Feb. The Institute for Justice, a Washington-based public interest law firm, is asking the court to rule that it is wrong for cities to take property from one owner to give to a developer. Scott Bullock, a senior attorney for the institute, says another case decided last summer also has implications. The Michigan Supreme Court overturned its *Poletown* ruling, which is a textbook case long used by cities and courts to allow eminent domain for commercial projects. In the case, the court allowed General Motors to push 3, largely Polish immigrants out of their homes so it could expand its manufacturing plant. The new state Supreme Court said the decision was indefensible. Cities and counties often consider economic-development projects valid reasons to condemn private property. The strongest cases for such takings involve areas considered blighted. That means they have decaying buildings and inadequate streets, curbs, sidewalks and sewers. These projects are usually undertaken by city redevelopment agencies RDAs. Residents have 30 days after a "blight" designation to file a complaint in District Court - or they lose their right to question the blight. Once a redevelopment area is before the RDA board, residents can block a planned redevelopment area by submitting written objections from 40 percent of the property owners. That forces a vote at the next election. Written objections by 60 percent of the property owners can force the RDA to shelve the project for three years. In both cases, the objections have to be submitted before the board accepts the plan. Rarely, however, do property owners organize early enough to contest a blight designation. She raised six children here. Ogden City wants Fernandez, along with residents of 33 other homes and owners of eight businesses, to move out to make way for a Super Wal-Mart. Fernandez and other home and business owners in the acre island are not optimistic. But they say they will go down fighting City Hall. This is for Wal-Mart. They consider business expansion a public good, particularly when they clean up run-down neighborhoods in the process. A wave of court rulings nationally gives property-rights advocates hope that that era is ending. It would clean up an unsightly, old neighborhood where houses are squeezed in with manufacturers at a major entrance to downtown, 21st Street. Mayor Matthew Godfrey acknowledges some residents are being asked to make a sacrifice. We feel bad they have to. The law firm - the Institute for Justice - will argue a major Connecticut case along those lines before the U. Littrell bought property in the Wal-Mart project area just so she could sue the city, on constitutional issues, in 2nd District Court. But if not, he said, the city will use eminent domain. Amy Butters, a Syracuse-based attorney, is working for free for property owners in the neighborhood, fueled in part by a wrenching childhood memory. Her grandfather was forced to sell his tailor shop on Washington Boulevard to make way for the Ogden City Mall in the early s. After the mall failed, the city bought the property, razed the buildings, and is slowly redeveloping the property. The neighborhood is not supposed to be a neighborhood. More than 50 years ago, the city zoned it for manufacturing. Officials assumed that the houses, already decades old by then, would eventually be replaced. Fernandez and Donna Marti, who lives with her year-old husband in the home where he was born, say the city has ignored calls seeking enforcement of lawn and abandoned-car ordinances. She and her husband, Evo, have signed an option for the city to buy their home, which they have upgraded frequently through the years. But they are not happy about having to leave. It rankles Marti that her LDS bishop is one of the city officials pushing her out of her home. Reid did not directly try to persuade her to sell, she says. But that was the subtle message. Reid did not return a request for comment. He knows some of these people very personally. Milton and Cristina Rodriguez say they see an irony. In other projects, Ogden is encouraging people to live and work downtown - exactly

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what the Rodriguezes do. Cristina lives just a block from her job at the Internal Revenue Service. Milton owns vacant properties adjacent to his home so he could build a shop for his growing chain-link fencing business.

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2: Eminent Domain: Private Property Rights v. Economic Development – SGR Law

An example of property being condemned is when residential homes are cleared to make way for a wildlife reservation. In this example, the homes are "condemned", so that the land may serve the public use of a more natural environment.

In *Kelo v City of New London*, the Court, voting 5 to 4, upheld a city plan to condemn homes in a blue-collar residential neighborhood. Justice Stevens, writing for the Court, found this donation of property to a developer to be a "public use. The Takings Clause Private property shall not be taken for a public use, without just compensation. Should affected individuals or corporations be compensated whenever the actions of government diminish property values? If so, should people whose property values have increased as the result of governmental action have to cough up the increase? Should the requirement of just compensation depend upon whether the government was taking action to prevent a harm or to secure a public benefit? Lucas contended that the action of the S. Coastal Commission rendered his property valueless? What value might it have? In oral argument, Justice Blackmun asked the attorney for Lucas: Is Dolan just an "exactions" case, or does it have significance for other types of takings cases? Does the "rough proportionality" test of Dolan strike you as one that courts will find easy to administer? What is the "private property" that government may not take without just compensation? Does it include personal property such as a car? Does it include intellectual property such as rights under copyright law in a song? Presumably, if the use for which property is taken is not "public," the taking violates the Constitution--even if compensation is paid. What might be examples of non-public uses? May the government condemn property and turn it over to a private developer? If a month moratorium on all development is not enough to be a per se taking see *Tahoe Preservation Council*, what about a year moratorium? Is the majority right is applying the Penn Central analysis to all bans on development called "temporary" by regulators? The landowners argued that the Florida courts had redefined their land boundaries, which used to extend all the way to the tide line, in such a way as to constitute a taking of their property. The Court split 4 to 4 on the question of whether courts could ever be financially liable for a taking.

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3: Revealed: London council took on financial risk of estate development | Cities | The Guardian

A change in state law limited the power of cities to use eminent domain for commercial projects. Today, cities condemn property not for big, eye-catching developments but for mundane public uses.

Eminent domain in the United States Most states use the term eminent domain, but some U. The constitutionally required "just compensation" in partial takings is usually measured by fair market value of the part taken, plus severance damages the diminution in value of the property retained by the owner [remainder] when only a part of the subject property is taken. Where a partial taking provides economic benefits specific to the remainder, those must be deducted, typically from severance damages. When it came time to draft the United States Constitution , differing views on eminent domain were voiced. The Fifth Amendment to the Constitution requires that the taking be for a "public use" and mandates payment of "just compensation" to the owner. In such cases, the property owner seeking compensation must sue the United States for compensation in the U. Court of Federal Claims. The legislature may also delegate the power to private entities like public utilities or railroads, and even to individuals. Supreme Court has consistently deferred to the right of states to make their own determinations of "public use". Canada[edit] In Canada, expropriation is governed by federal or provincial statutes. Under these statutory regimes, public authorities have the right to acquire private property for public purposes, so long as the acquisition is approved by the appropriate government body. Once a property is taken, an owner is entitled to "be made whole" by compensation for: Owners can advance claims for compensation above that initially provided by the expropriating authority by bringing a claim before the court or an administrative body appointed by the governing legislation. Europe[edit] In many European nations, the European Convention on Human Rights provides protection from an appropriation of private property by the state. Article 8 of the Convention provides that "Everyone has the right to respect for his private and family life, his home, and his correspondence" and prohibits interference with this right by the state, unless the interference is in accordance with law and necessary in the interests of national security , public safety, economic well-being of the country, prevention of disorder or crime, protection of health or morals, or protection of the rights and freedoms of others. This right is expanded by Article 1 of the First Protocol to the Convention, which states that "Every natural person or legal person is entitled to the peaceful enjoyment of his possessions. Settled case-law of ECHR provides that just compensation has to be paid in cases of expropriation. Compulsory purchase in England and Wales After his victory in , William the Conqueror seized virtually all land in England. Although he maintained absolute power over the land, he granted fiefs to landholders who served as stewards, paying fees and providing military services. Chapter 28 of Magna Carta required that immediate cash payment be made for expropriations. In , a statute was passed granting commissioners of sewers in Lincolnshire the power to take land without compensation. After the early 16th century, however, Parliamentary takings of land for roads, bridges, etc. However, as the voting franchise was expanded to include more non-landowners, the bonus was eliminated. Germany[edit] The Basic Law for the Federal Republic of Germany states in its Article 14 3 that "an expropriation is only allowed for the public good" [14] and just compensation must be made. It also provides for the right to have the amount of the compensation checked by a court. Italy[edit] Espropria, "expropriate". The law regulating expropriation is the D. Also other national and regional laws may apply, not always giving a full compensation to the owner. The article 42 of the Italian Constitution and the article of the Italian Civil Code state that a private good can be expropriated for public utility. Furthermore, the article 2 of the Constitution binds Italian citizens to respect their mandatory duties of political, economical and social solidarity. The implementation of the eminent domain follows two principles: According to the Italian Constitutional Court , this compensation is not required to be equal to the market value of the expropriated good, although this sum must not be merely symbolic. Nazionalizzazione "nationalization" , instead, is provided for by article 43 of the Constitution; it transfers to governmental authority and property a whole industrial sector, if it is deemed to be

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a natural or de facto monopoly , and an essential service of public utility. The most famous nationalization in Italy was the nationalization of the electrical power sector. Spain[edit] Article The right of state or municipality to buy property when it is determined to be of "particular public interest", is regulated in Expropriationslagen The law also states that the property owner shall not suffer economic harm because of the expropriation. Section 51 xxxi of the Australian Constitution In Australia, section 51 xxxi of the Australian Constitution permits the Commonwealth Parliament to make laws with respect to "the acquisition of property on just terms from any State or person for any purpose in respect of which the Parliament has power to make laws. It may be necessary to imply a need for compensation in the interests of justice, lest the law be invalidated. Kirby J in dissent, along with a number of commentators, viewed this as a missed opportunity to comment on the exceptional nature of powers of resumption exercised in the absence of a public purpose limitation.

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4: Eminent domain - Wikipedia

Cities and counties often consider economic-development projects valid reasons to condemn private property. The strongest cases for such takings involve areas considered blighted. That means they have decaying buildings and inadequate streets, curbs, sidewalks and sewers.

The owners, including lead plaintiff Susette Kelo of 8 East Street, sued the city in Connecticut courts, arguing that the city had misused its eminent domain power. The Takings Clause reads: The plaintiffs argued that economic development, the stated purpose of the taking and subsequent transfer of land to the New London Development Corporation, did not qualify as a public use under the Fifth Amendment. The Connecticut Supreme Court heard arguments on December 2, The state court issued its decision *Conn. Borden*, Richard N. Palmer and Christine Vertefeuille. Zarella wrote the dissent, joined by Chief Justice William J. Sullivan and Justice Joette Katz. The court held that if a legislative body has found that an economic project will create new jobs, increase tax and other city revenues, and revitalize a depressed urban area even if that area is not blighted, then the project serves a public purpose, which qualifies as a public use. *Parker*, *U. Midkiff*, *U. Incorporation of the Bill of Rights*, protect landowners from takings for economic development, rather than, as in *Berman*, for the elimination of slums and blight? Kelo was the first major eminent domain case heard at the Supreme Court since In that time, states and municipalities had slowly extended their use of eminent domain, frequently to include economic development purposes. There was also an additional twist in that the development corporation was ostensibly a private entity; thus the plaintiffs argued that it was not constitutional for the government to take private property from one individual or corporation and give it to another, if the government was simply doing so because the repossession would put the property to a use that would generate higher tax revenue. Kelo became the focus of vigorous discussion and attracted numerous supporters on both sides. Some 40 amicus curiae briefs were filed in the case, 25 on behalf of the petitioners. The latter groups signed an amicus brief arguing that eminent domain has often been used against politically weak communities with high concentrations of minorities and elderly. The case was argued on February 22, Oral arguments were presented on behalf of the petitioners plaintiffs by Scott G. Bullock of the Institute for Justice in Washington D. During arguments, several of the Justices asked questions that forecast their ultimate positions on the case. Justice Antonin Scalia, for example, suggested that a ruling in favor of the city would destroy "the distinction between private use and public use," asserting that a private use which provided merely incidental benefits to the state was "not enough to justify use of the condemnation power. *Virginia*, *U. Parrish*, *U. However, he does not explicitly limit these criteria to eminent domain, nor to minimum scrutiny, suggesting that they may be generalized to all health and welfare regulation in the scrutiny regime. A court confronted with a plausible accusation of impermissible favoritism to private parties should [conduct] City of New London did not establish entirely new law concerning eminent domain. In the majority opinion, Justice Stevens wrote the "Court long ago rejected any literal requirement that condemned property be put into use for the general public" *U. Thus precedent played an important role in the 5â€”4 decision of the Supreme Court. The Fifth Amendment was interpreted the same way as in Midkiff U. The dissenting opinion suggested that the use of this taking power in a reverse Robin Hood fashionâ€” take from the poor, give to the richâ€” would become the norm, not the exception: Any property may now be taken for the benefit of another private party, but the fallout from this decision will not be random. The beneficiaries are likely to be those citizens with disproportionate influence and power in the political process, including large corporations and development firms. Though citizens are safe from the government in their homes, the homes themselves are not. Allowing the government to take property solely for public purposes is bad enough, but extending the concept of public purpose to encompass any economically beneficial goal guarantees that these losses will fall disproportionately on poor communities. Those communities are not only systematically less likely to put their lands to the highest and best social use, but are also the least politically powerful. Underneath the white paint**

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can just barely be read the words "Thank you Gov. Rell for your support" and the web URLs of two organizations protesting over-use of eminent domain, Castle Coalition and Institute for Justice. The same house, June 10, The "thank you" is still visible, but some windows are broken and others are boarded up, and "No Trespassing" has been spray-painted on it, as well as the URLs being obscured by spray paint. Following the decision, many of the plaintiffs expressed an intent to find other means by which they could continue contesting the seizure of their homes. The city contended that the residents have been on city property for those five years and owe tens of thousands of dollars of rent. In June , Governor M. Jodi Rell intervened with New London city officials, proposing the homeowners involved in the suit be deeded property in the Fort Trumbull neighborhood so they may retain their homes. As of the beginning of , the original Kelo property was a vacant lot, generating no tax revenue for the city. Pfizer chose to retain the Groton campus on the east side of the Thames River , closing its New London facility in late with a loss of over jobs. The well-laid plans of redevelopers, however, did not pan out. The proposed hotel-retail-condo "urban village" has not been built. And earlier this month, Pfizer Inc. As of the area remains an empty lot. Public reaction[edit] Public reaction to the decision was highly unfavorable. Many owners of family farms also disapproved of the ruling, as they saw it as an avenue by which cities could seize their land for private developments. The American Conservative Union condemned the decision. Prior to the Kelo decision, only seven states specifically prohibited the use of eminent domain for economic development except to eliminate blight. Since the decision, forty-four states have amended their eminent domain laws, although some of these changes are cosmetic. Eventually, the City of New London extended an apology to Susette Kelo and her neighbors, and so did one of the Connecticut Supreme Court Justices who voted for the city. Bush issued an executive order [33] instructing the federal government to restrict the use of eminent domain The operative language prohibits the federal government from exercising eminent domain power if the only justifying "public use" is economic development; and imposes the same limit on state and local government exercise of eminent domain power "through the use of Federal funds. As some small-scale eminent domain condemnations including notably those in the Kelo case can be local in both decision and funding, it is unclear how much of an effect the bill would have if it passed into law. Scholarly reaction[edit] In , land use Professor Daniel R. Mandelker argued that the public backlash against Kelo is rooted in the historical deficiencies of urban renewal legislation. In , Professor Edward J. Lopez of San Jose State University studied passed laws and found that states with more economic freedom, greater value of new housing construction, and less racial and income inequality were more likely to have enacted stronger restrictions sooner. Of those states, 22 enacted laws that severely inhibited the takings allowed by the Kelo decision, while the rest enacted laws that place some limits on the power of municipalities to invoke eminent domain for economic development. The remaining eight states have not passed laws to limit the power of eminent domain for economic development.

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5: Washington DC Business Bankruptcy Lawyer - Maryland Commercial Real Estate Attorney - Samuelson

WASHINGTON "The Supreme Court on Thursday ruled that local governments may seize people's homes and businesses even against their will for private economic development.. It was a

Reddit Flipboard Just about everyone knows that under a process called eminent domain, the government can and does seize private property for public use - to build a road, a school or a courthouse. Correspondent Mike Wallace reports on this story, which first aired last fall. They live in a quiet neighborhood of single-family houses in Lakewood, Ohio, just outside Cleveland. The City of Lakewood is trying to use eminent domain to force the Saleets out to make way for more expensive condominiums. But the Saleets are telling the town, "Hell no! This is our home. And I worked hard. Now, he and his wife plan to spend the rest of their days there, and pass their house on to their children. Lakewood cannot survive without a strengthened tax base. Is it right to consider this a public good? With great views, over the Rocky River, those condos will be a cinch to sell. And to legally invoke eminent domain, the city had to certify that this scenic park area is, really, "blighted. This is an area that we absolutely love. This is a close-knit, beautiful neighborhood. A statutory term is used to describe an area. The question is whether or not that area can be used for a higher and better use. Who has all those things? My home is not for sale. But this is rampant all over the country. They claim that taking private property this way is unconstitutional. But nobody thinks that property can be taken to give it to their neighbor or the large business down the street for their economic benefit," adds Berliner. The City of Mesa, citing the need for "redevelopment," is trying to force Bailey to relocate to make way for an Ace Hardware Store that would look better and pay more taxes. Business has been awesome, Bailey says. In fact, the city has "made dirt" out of three restaurants and four businesses that once stood on a five-acre lot. Lenhart wants a much bigger store. Bailey is gonna get hurt. This place was built in as a brake and front-end shop," says Bailey. Lenhart admits that he never tried to negotiate with Bailey: Now, we are going to sit in Mesa, Arizona and have our town center decay? The new headquarters of The New York Times. Wallace told 60 Minutes that the newspaper never tried to negotiate with him. Instead, The Times teamed up with a major real estate developer, and together they convinced New York State to use eminent domain to force Wallace out. By declaring the block blighted. Most of their neighbors have agreed to sell if the project goes ahead. But the Saleets, plus a dozen others, are hanging tough. But I guess I just leased it, until the city wants it," says Jim Saleet. This is my dream home. But in New York City, tenants and owners have been forced off their land so The New York Times can begin building its new headquarters.

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6: Condemned Property and Government Takings | LegalMatch Law Library

But Tuesday's ruling found that local officials can use their "eminent domain" power to condemn homes in a working-class neighborhood for private development in hopes of boosting tax revenue.

With a population of 7. Like so many cities throughout the world, Jakarta struggles with problems of urban poverty, inadequate housing, high unemployment, poor transportation, inadequate provision of health care, lack of services, and decreasing environmental quality. Jakarta is also a segregated city, where the rich live in exclusive residential communities while the poor reside in unplanned urban villages or slums. Administratively, Jakarta is a region headed by a governor. Following changes in how governors are selected, the Jakarta provincial parliament elected Sutiyoso to a second five-year term in September. However, the regional government faces the obstacle of unhindered urbanization and it is mostly the people with social welfare problems who obstruct the [public order laws]. Because of that, the regional government has chosen the means of law enforcement. Over the years, a number of factors have been presented by the Jakarta government as justification for forcibly evicting people from their homes, including development and infrastructure projects, urban redevelopment and beautification projects, public order concerns, property market forces supported by state intervention, and alleged natural hazards such as flood risks. Many migrants could not afford land on which to build. Then, as today, the result was overcrowding of the existing housing stock and an explosion of informal squatter settlements. Scarcity of available or affordable residential land forced many people to build on land which they did not own. These developers often exploited the tenuous legality and physical nature of many of the communities built by the indigenous and migrant urban poor to acquire the land for minimal compensation. The local government, at times aided by martial law, cleared large tracts of land to make way for public works projects as well as commercial buildings. An improving economy during the s, buoyed by high oil prices, assisted both public and private construction. Housing construction claimed tens of thousands of hectares of land during the s, three-quarters of which was sub-divided in a manner that violated planning regulations. This increase in development led to a rise in land prices and also speculative practices by private investors. Less educated farmers and urban inhabitants were more prone to intimidation and non-market price acquisitions, and thousands of individuals were evicted from their farms and homes to make way for new luxury houses. They had considerable power over land prices and used it to construct large numbers of high-rise office buildings on favorable terms. Land supply remains constrained because national government agencies, local government, and private developers hold most of the land that could be developed for new housing yet choose not to make it available. People often start by building small houses, and then gradually expand and improve structures as needs dictate and finances allow. Infrastructure Development and the Role of International Agencies The Indonesian government has announced that it considers infrastructure development to be one of the primary targets for foreign investment and financing. The number of incidents of evictions is likely to continue or increase during the next few years, as Jakarta has a number of large-scale development projects scheduled. Public order officials evict individuals employed in the informal sector from their places of work. A large coalition of NGOs has organized to oppose this anti-poor campaign and forced evictions, bringing together evicted residents with urban poor, students, indigenous communities, local NGOs, farmers, and even religious scholars. Established in , these forces are separate from the police and are empowered to enforce administrative regulations concerning public order and security. They are used to collect local taxes, and enforce local public order ordinances, yet their overall mandate is not particularly well defined. Public Order officials carrying out an eviction in Pisangan Timur, January 12, Some witnesses said the regular police actually had to intervene to protect civilians from excessively violent public order officials during evictions. Urban Gangs Involved in Evictions Frequently, gangs of thugs assist government security forces in carrying out evictions. During the regime of President Soeharto, such groups acted as government henchmen, and have since transformed themselves into powerful

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social and political players. Feel that this is their place. They resent new migrants. So when Sutiyo touched upon this issue they gave him help. In three instances, only one witness was able to give a name to the gang, and in the absence of corroborating evidence we have declined to identify those gangs in this report. When Human Rights Watch met with a group of five members of FBR to discuss the allegations against their group regarding the eviction at Cakung Cilincing, East Jakarta, they denied being paid upfront by anyone for any of their activities. One member told us: When FBR manages to help one person with a case, we would not ask for payment, but willingly they will give a donation [afterwards]. This is how one FBR member explained how the group gets involved in a case: So FBR would like to help the government so that they will become a clean government by giving assistance and taking care of the situation. Who owns the land, year by year. The host will know more about their home. Kampung are predominately home to low- and middle-income earners, many of whom work within the same kampung as they live, and partake in kampung-centered social and cultural activities such as schools and religious institutions. Human Rights Watch, pp. Belknap Press of Harvard University Press, p. A History, Oxford University Press, The high cost of the apartments also kept these homes out of the hands of their supposed intended recipients. By , the company had adopted a plan to construct houses for middle-income families as a means to cross-subsidize its construction of housing for the poor, and over the years, Perumnas became increasingly involved in the middle-income and high-income housing market as it entered into market competition with private developers. Between and the most recent year for which statistics are available , the city in fact experienced negative population growth, from a population of 8,, in to 7,, in Torture of detainees in police and military custody is also widespread across the country. Human Rights Watch

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7: Eminent Domain: Being Abused? - CBS News

John (Cougar) Mellencamp's sentiment in his hit Pink Houses may be precisely what has fueled the controversy following the United States Supreme Court ruling on June 23, that local governments may exercise eminent domain powers to take private property for economic development.

Advertise But before you start digging a trench in the front yard to defend your home, consider the barriers that remain in place to slow down any government agency that gets ideas about seizing your property. The recent high court ruling also upheld the idea that state and local governments have the ultimate authority over the taking of private property, including the regulations spelling out when it is "okay" and is not "okay" to do so. First of all, if you and your neighbors make enough noise, the town may back down. Condemning private property is not a politically popular move because it makes other voters nervous. Even if the government goes ahead with a condemnation order, you can appeal it. And if a judge and jury side with you, you win. When it comes to valuing a property, the only true way to know its worth is to sell it. So the government will hire an appraiser. Appraisers have fairly wide latitude in the value they come up with. In Florida, if the government tries to seize your property, it also has to pay your legal fees. You can, and should, ask for relocation expenses. So once you get settled, throw a block party and find out if any of your neighbors share your concerns. Subscribe to the local paper and keep up with news of any proposed developments. Go to public meetings. At the first sign that you might be sitting in the way of development, get a lawyer. In the meantime, go ahead and start fixing the roof and sheet-rocking those old walls. If other homeowners around you start sprucing up their houses too, you may soon find yourself in a much more "upscale" neighborhood. That should keep the town from getting any ideas about taking away your new house. Fourteen thousand a year into a k today is next to impossible, but 5 to 7 years from now will not be once I get a few raises. But will that get me to Easy Street? Retirement calculators will only get you so far: The younger you get started on a retirement plan, the easier it is to make it work. But the longer your time horizon until retirement, the less reliable your assumptions will be. So here are three things to think about as you search for that "perfect calculator: This is probably the hardest of all. What, exactly, does "Easy Street" mean for you? A McMansion in the suburbs with three cars in the garage? A house in the woods and a trip someplace warm every year? You may have to adjust that goal downward. Or you may have to save harder. The purpose of the exercise is to see how these two numbers are linked. There is, in fact, no way to calculate how well your investments will perform. Forecasting your return also forces you to answer one of the most basic questions of investing: Riskier investments sometimes but by no means always bring higher returns. If you plan to retire in 5 years, taking on higher risk may not make as much sense. This is the ultimate wild card. Inflation also hits your retirement plan two ways: Again, give it your best guess and expect to adjust your plan if the real rate of inflation differs from your forecast. All of these numbers, along with your income and financial responsibilities, will continue to change throughout your lifetime. Make your best guesses now, and then check your plan at least once a year.

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8: Ogden officials may condemn properties for a Wal-Mart [Residents challenge constitutionality]

Cities across the country have been using eminent domain to force people off their land, so private developers can build more expensive homes and offices that will pay more in property taxes than.

Condemnation is a process by which private property is taken for the purpose of public use. An example of property being condemned is when residential homes are cleared to make way for a wildlife reservation. Who May Condemn Property? According to the Takings Clause of the U. Constitution and principles of eminent domain, the government is allowed to take private property for the purpose of public use. Private entities such as corporations or charities may also condemn property if they will be using it for public use. They also must fairly and justly compensate the property owner for the taking. However, private condemnation of land is somewhat rare, as most private entities will obtain land for private use rather than public use. Takings for public purposes are more commonly executed by Federal and state entities. Also, the property owner might not be entitled to just compensation if the occupation does not result in any fundamental change in the ownership of the property. What is Just Compensation and How is this Calculated? Just Compensation refers to the amount that the government must pay a property owner for the condemnation of their property. The amount of loss is measured according to the fair market value standards at the time of taking. In some court opinions, the process of calculating just compensation involves a determination of the value of the land at the time of condemnation before the public usage begins. Then, a court will attempt to estimate the value of the land after the public use sets in. The difference between the two figures will be approximately the amount of just compensation. What are the Remedies for an Unjust Taking or Condemnation? In determining whether a property can be condemned at all, the government will weigh the social value of the project versus the amount that the property will be diminished by. If a court concludes that the loss to the property owner is small compared to the social value of the property, they will usually grant the condemnation. On the other hand, if it is determined that the amount of loss outweighs the value of the property to society as a whole, the government is not allowed to take the property. If the property owner feels that this balancing test was faulty or unjust, they may be entitled to the following remedies: Allow the government to proceed with the project and obtain just compensation through a post-deprivation hearing Seek an injunction to terminate the project, while the government pays for any losses resulting from the project Resisting condemnation proceedings can sometimes be challenging. The property owner would need to prove that their losses would outweigh the benefits gained by society. However, this can be proven using a variety of factors, especially if the private property is unique, has sentimental or historical value, or is difficult to replace. If you feel that your private property has been marked for condemnation, you should contact a real estate lawyer immediately to determine your rights. You would prevail if it can be shown that the taking is not for public use, or if you have not been offered just compensation in return for your losses. Various Federal and state laws cover the principles of eminent domain and condemnation, and an attorney can thoroughly explain how these apply to you.

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9: Homes may be 'taken' for private projects - US news | NBC News

The appropriation of private property by the fee-simple estate may be condemned except Understanding the Condemnation Process in Texas.

Private Property Rights v. Economic Development Eminent Domain: City of New London, S. At issue was the scope of the Fifth Amendment to the U. The city was economically distressed after its last major employer, the U. Naval Undersea Warfare Center, closed in . Its tax base and population were continually decreasing, and city leaders were desperate for some form of economic development. In , the pharmaceutical giant Pfizer began construction of a major research facility on the outskirts of the Fort Trumbull neighborhood of New London. Seeing an opportunity, the city activated the New London Development Corporation, a private entity under the control of the city government, to consider plans to redevelop the area and encourage new economic activities that might be brought in by the Pfizer plant. The development corporation created a development plan that included a resort waterfront hotel and conference center New London is located on both the Thames River and Long Island Sound , a new state park, new residences, and various research, office and retail spaces. In , New London approved the development plan, which was projected to create numerous jobs, increase taxes and other revenues and revitalize the economically distressed city, including its downtown and waterfront areas. Kelo, the lead plaintiff, owned a small home on the Thames River. Although the trial court granted a permanent restraining order prohibiting the taking of certain property, the Connecticut Supreme Court, relying on U. Supreme Court cases such as Hawaii Housing Authority v. Over the years, state and local governments slowly extended their use of eminent domain, frequently to include economic development purposes. But a backlash was brewing. In , the Michigan Supreme Court overturned Poletown and blocked the condemnation of small businesses surrounding a county airport. The Kelo case thus became the focus of vigorous discussion and debate by supporters on both sides. Some 40 amicus curiae briefs were filed in the case, including 25 on behalf of the petitioners by various nonprofit, public policy and public rights organizations, including the NAACP and AARP. The Kelo case was argued before the Supreme Court on February 22, Interestingly, the argument was heard by only seven members of the Court. Although absent from the oral argument, Chief Justice Rehnquist and Justice Stevens read the briefs and oral argument transcripts and participated in the decision. They do not warrant the crafting of an artificial restriction on the concept of public use. Justices Kennedy, Souter, Ginsburg and Breyer joined in the majority opinion. Justice Kennedy also filed a separate concurring opinion. The beneficiaries are likely to be those citizens with disproportionate influence and power in the political process, including large corporations and development firms. Those communities are not only systematically less likely to put their lands to the highest and best social use, but are also the least politically powerful. For example, in establishing the price, the government does not consider the very thing that supposedly justifies the condemnation: Instead, local governments typically hire appraisers who establish low property valuations based on the current use of the property and then threaten the use of eminent domain to intimidate property owners to sell at below-market rates. For example, the Kelo decision will have little effect in the nine states that already specifically prohibit the use of eminent domain for economic development except to eliminate blight. Other states, such as Alabama, Delaware, Nevada, Texas and Utah acted quickly to ban takings like those authorized in Kelo. Additionally, states such as Alabama, California, Florida, Georgia, Michigan, New Jersey and Texas are all considering the extra safeguard of constitutional amendments for the same purpose. Eminent domain is expected to be a major issue in upcoming political elections and state and federal legislative sessions. Indeed, there has been a groundswell of support for homeowners and property rights, and politicians and legislatures are acting quickly to rein in eminent domain authority. It opens the door for government to use the power of eminent domain beyond what I believe was the intent of our Founding Fathers. Congressmen Phil Gingrey R-Ga. Further, in a sharp rebuff of Kelo, the House approved a bill H.

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Currently, counties, cities and housing authorities in Georgia may exercise redevelopment powers as authorized by the General Assembly, including the power to sell or otherwise dispose of property acquired by eminent domain to private enterprise for private use. Since the decision in *Kelo*, multiple bills and resolutions have been introduced in the Georgia General Assembly addressing the issue of eminent domain. As a result, Senator Chapman has also filed a bill for a moratorium on the use of eminent domain for urban development purposes S. House Bill , sponsored by Georgia Representative Tom Knox, specifies among other things that the power of eminent domain shall not be used for economic development or redevelopment. Likewise, Georgia House Resolutions and , sponsored by Representatives Tim Bearden and Tom Knox, respectively, propose amendments to the Georgia Constitution that effectively prohibit the use of eminent domain solely or primarily for the purpose of improving tax revenue or for the purpose of economic development. In February , Governor Perdue proposed comprehensive legislation to tighten laws regulating the use of eminent domain. Currently, counties, cities and housing authorities in Georgia may exercise redevelopment powers, including the power to sell or otherwise dispose of property acquired by eminent domain to private enterprise for private use. The *Kelo* decision is one of the most controversial decisions issued by the Supreme Court in recent memory. Because the decision makes clear that state legislatures can limit eminent domain authority, the issue of whether and how to do so is one of the hottest currently facing lawmakers. As shown above, there already has been a burst of legislation attempting to deal with the *Kelo* ruling. In a rare display of unanimity that cuts across partisan lines, lawmakers in virtually every state are advancing bills and constitutional amendments to limit the use of eminent domain to take property for economic development purposes. Supreme Court heard arguments and then eventually ruled that it could be torn down for private development. Shortly after the *Kelo* decision, the state legislature and the governor of Connecticut established a moratorium on all takings for economic development while the legislature revisited the law. In February , the City Council unanimously voted to find a way to save the homes. Susette Kelo states that she has no plans to move out of her little pink house. City of New Orleans, F.

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