

# TAKINGS AND PRIVATE PROPERTY

Can the government take your house from you, even if you've done nothing wrong? The answer - perhaps surprisingly - is "yes." However, there are many qualifications placed upon the government's ability to seize private property.

The Fifth Amendment puts limits on the power of "eminent domain" - the ability of the state to take private property. It reads:

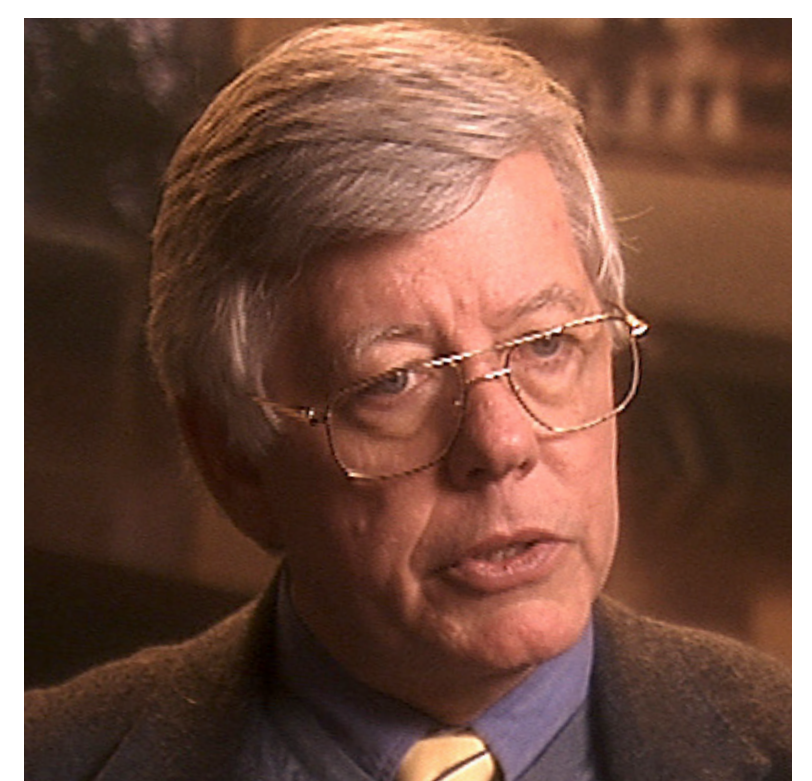
**"... nor shall private property be taken for public use, without just compensation."**

For many years, courts defined "public use" to mean lands owned and used by the public - roads, bridges, and schools. This began to change in the 1950s, when the Supreme Court broadened its understanding of the term "public use" to include takings that served a "public purpose." The removal of blight, for instance, could then serve a public purpose, even if the public did not directly use the land.

In 2005, the Supreme Court moved to expand the definition of "public purpose" once again. The Court considered the case of Suzette Kelo, whose house was being taken by the city of New London, Connecticut. The city was attempting to seize Kelo's property in order to make it available for the Pfizer Corporation's corporate headquarters. In their court briefings, New London's attorneys stated that the increase in the tax base that would result from the conversion of Kelo's property was a "public purpose" allowed under the Constitution.

The Supreme Court agreed, and Kelo's home was razed to make way for a development project that, ironically, never occurred.

**"We now have the situation around the country where literally thousands of homeowners are being threatened by municipalities saying that "If we just take your house away from you, we can build a Wal-Mart on the property and get more tax money." - David Keene, The American Conservative Union**

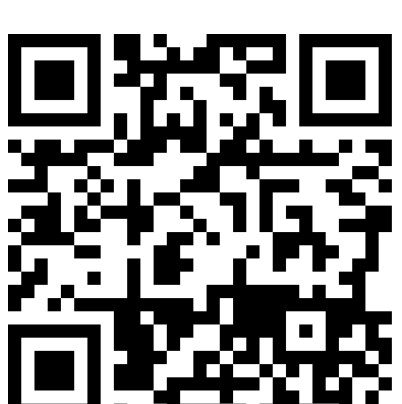


This action by the Supreme Court spawned a rebellion in statehouses across the nation. From Arizona to Minnesota, state legislatures moved quickly to revise their own laws to prohibit takings for the purpose of economic development.

Kelo provides a reminder that even though the Supreme Court has acted on an issue, it does not mean that the Court has necessarily had the final say on the matter.



**"It's a good reminder to all of us that a constitutional decision is frequently the beginning and not the end of a political discussion."**  
- Jim Chen, Dean of Louis D. Brandeis School of Law



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