



Don't Let the Government Take Your Home!

by Amy K. Frantz

Property owners are a source of revenue for the government — mainly through property taxes imposed on those with homes, businesses, or farms. In many cases, the government could bring in even more revenue if those homes, businesses, or farms were replaced with a hotel or shopping mall or baseball park. Can the government force you to give up your property to make way for private development, just because it will bring in more tax revenue? Yes, according to a recent U.S. Supreme Court ruling.

In 1997 Susette Kelo purchased a home in the Fort Trumbull neighborhood of New London, Connecticut. Many of her neighbors had lived in their homes in this area for decades. However, a year later Pfizer Inc. decided to build a research facility in New London. City leaders were undoubtedly excited by the news, as this new opportunity would possibly buoy the city's depressed economy. In fact, the city leaders believed that it would improve their economic outlook even more if a private developer were to redevelop the area nearby the Pfizer facility to build a hotel and commercial center.

Unfortunately for Susette Kelo, her home stood in the way of the city's economic development plans. The city went ahead, allowing the New London Development Corporation to use eminent domain to take the entire Fort Trumbull neighborhood for their project. Those property owners who did not willingly sell saw their property condemned.¹

Eminent domain is not a new concept. Our Founding Fathers recognized it when they added protection for property owners to our U.S. Constitution. The Fifth Amendment prohibits private property from being taken for public use without just compensation.² However, Susette Kelo didn't believe that a hotel and shopping center constituted a public use, so she sued the city of New London in a case that eventually came before the U.S. Supreme Court.

The city's belief that economic development trumped individual property rights was reinforced during their arguments before the Court. When asked by Justice Antonin Scalia whether the city "can take from A and give it to B, if B pays more in taxes," New London attorney Wesley Horton replied, "If it's a significant amount."³ The city wasn't trying to build a highway that would be open to all citizens or trying to clean up a blighted neighborhood. They simply wanted to clear a path for a private development project that would increase their tax revenue.

The Supreme Court decision was 5-4 in favor of the City of New London. Justice John Paul Stevens wrote in the majority's opinion that the city's economic development plan was crafted to provide new jobs and increase tax revenue, which would benefit the entire community. As long as the government can claim its plans are for the benefit of the community, it is enough to meet the public-use requirement to invoke eminent domain in the view of the five Justices in the majority on this case. Writing for the

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minority, Justice Sandra Day O'Connor warned of the consequences of the decision. "Nothing is to prevent the state from replacing any Motel 6 with a Ritz-Carlton, any home with a shopping mall, or any farm with a factory."⁴

In light of the Supreme Court's decision, what can the average citizen do, aside from sitting at home and hoping the local government doesn't decide that your property would be more lucrative if your house were replaced with a Holiday Inn or a Starbucks? One gentleman, Logan Darrow Clements, has drafted a letter to city officials in Weare, New Hampshire with a proposal to seize Justice David Souter's farmhouse and build a hotel on the property. However, I suspect that this plan is more of a symbolic protest than a serious plan.

The Supreme Court's decision does allow for some limits on the power of governments to take property from citizens in the name of economic development. The majority opinion states that their opinion does not preclude a state from passing legislation to place restrictions on the use of eminent domain. According to a recent *Wall Street Journal* article, at least ten states already have laws that prohibit using eminent domain for economic development purposes, while six other states expressly allow it. Iowa is not on either list.⁵

The Institute for Justice, the public interest law firm that represented Susette Kelo, has organized a nationwide network of citizen activists called the Castle Coalition to protect homeowners and small business owners through its "Hands Off My Home" campaign. The Castle Coalition is encouraging Governors, State Legislators, and local officials to sign a pledge opposing the use of eminent domain for private economic development purposes. You can check the Coalition's website to find out if your elected officials have signed the pledge at www.castlecoalition.org/HandsOffMyHome/.

The Supreme Court's decision has given even more power to state and local governments to take away private property in the name of improving the economy. Our country was founded so the colonists could escape the oppressive burden of government, but actions such as those taken by New London, Connecticut, show that our modern governments can be just as oppressive. If you disagree with the Court's decision, act now, before the government comes for your home as it did for Susette Kelo's.

ENDNOTES:

¹For more information on *Kelo v. New London*, visit the Institute for Justice website at www.ij.org.

²Read the U.S. Constitution on Public Interest Institute's website at www.limitedgovernment.org/publications/US%20Constitution.pdf.

³Steve Stanek, "Supreme Court Appears Split over 'Economic Development' as Public Use," *Heartland Institute's Budget & Tax News*, Vol. 3, No. 4, April 2005, p. 7.

⁴"Kennedy's Vast Domain," *Wall Street Journal*, June 24, 2005, p. A12.

⁵"They Paved Paradise," *Wall Street Journal*, June 30, 2005, p. A12.

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