

Charles Titus

Ross O. Wagner

English 101, Section 032

24 November 2005

When Should Eminent Domain be Used?

When should a city or state use their eminent domain powers? Over the past few years there have been a couple of cases that raised the questions of when eminent domain should be used. One of the most controversial cases in the history of the United States was the Kelo v New London Supreme Court ruling. In order to generate tax revenue, add jobs, and to prevent bankruptcy, the government's right to initiate eminent domain for public good is a necessary evil. Eminent domain in definition is "the right or power of public purposes without the owner's consent on payment of just compensation" ("Eminent Domain History"). Eminent domain has been a part of the United States ever since the constitution was created.

Eminent domain is not stated in the constitution. However, it is implied at the end of the Fifth Amendment, "[no person should] be deprived of life, liberty, or property be taken for public use, without just compensation" (U.S. Constitution). Eminent domain is not new to the United States. The first eminent domain case was "in 1879 the Supreme Court, in the case of Boom Co. v. Patterson, (98 U.S. 403) said that eminent domain appertains to every independent government. It requires no constitutional recognition; it is an attribute of sovereignty" ("Draw the Line"). After World War II, eminent domain was used on a regular basis. "In 1954, the Supreme Court ruled in Berman v Parker that private projects meet the definition if they have a public purpose" ("Eminent Domain History"). Eminent domain is a sad way for a family to lose their home.

Eminent domain is not a way a family should lose their home, without it being taken for a good reason. It is sad for a family to lose everything they have, because the government wants to generate more tax revenue, or create more jobs. For example in the Kelo v. New London Supreme Court case "one woman who was born in her house 87 years ago and has lived there

since, had resisted the plan and refused the city's offer of compensation" (Khawaja, Irfan). However, making this lady leave is helping out the city that she adores and loves. It would be wrong for the city to ask this lady to leave if it would not benefit the city. However, by using eminent domain to generate tax revenue in this case is justified.

A city or state has the right to use eminent domain if the area being taken is transferred to another private individual or corporation if it would increase the tax base of the community. For example, in New London, Connecticut some "homeowners argued that their neighborhood, unlike previous neighborhood cleared by use of eminent domain, was not blighted and redevelopment was not necessarily for the public good" ("Kelo v. New London" Now). However, "New London [was] deemed a distressed municipality by the state fifteen years ago" (Khawaja, Irfan). "Under the rationale that private developments outlined in the plan would increase the tax base of the area and the economic vitality of the city" ("Kelo v. New London" Now). If a city is declared a distressed municipality and evicting the homeowners from their home's in order to generate thousands in tax revenue compared to just hundreds in tax revenue is nothing but common since. In New London "city officials said, \$680,000 in property tax revenue" would be generated yearly compared to just hundreds that the homeowners would have to pay in taxes yearly (Lane, Charles). The city's move would keep it from going bankrupt, and it would help the city grow. However, eminent domain should also be used if it would create jobs for the city or state.

A city or state should use their eminent domain powers if it would create jobs for the public. For example, in New London the land that was going to be taken "was projected to create in excess of 1,000 jobs" (Kelo v. New London, Connecticut). Which "New London [was] deemed a distressed municipality by the state 15 years ago, has a high unemployment rate and fewer residents today than it has in 1920" (Khawaja, Irfan). Along with the addition with the new jobs more families would move to the area. Which would cause the city to grow and that would provide more money to the government with the increased tax revenue from all of the new families. This could create more jobs, because more companies might be interested in locating there due to all of the growth. Eminent domain should also be used by a city or state if it prevents it from going bankrupt.

A city or state should use eminent domain if it prevents it from going bankrupt. If a city is near bankrupt then it cannot provide all of the necessary items that a city needs in order to run like it is supposed to. For example, if a city is short of funds then it would have to reduce its budget in places that would harm the city. It would have to cut money from the police, and fire departments. However, by using their eminent domain powers a city could keep all of this from happening by letting a business come that would create thousands in tax dollars, and add jobs to the city. This means that a reduction in the police and fire departments would not happen and the city would still run smoothly.

The cities and states that use eminent domain to acquire land in order to keep themselves running smoothly is sad; however, these cities and states are looking out for what is best for their areas. These cities and states are not trying to make families move out of their homes in order to earn a quick dollar. These cities and states are only looking out for the best interest for their areas. The cities and states that are using their eminent domain powers are only trying to generate tax revenue, create jobs, or to prevent themselves from going bankrupt in order to keep their areas running smoothly as possible. However, if the cities and states did not care for their people, then they would let their cities and states go bankrupt or not provide enough jobs for the thousands of workers in their cities and states.

Works Cited

- "Draw the line in Alabaster." Boortz.com. 21 Aug. 2003: boortz.com 27 Nov. 2005
<http://boortz.com/nuze/alabaster.html>
- "Eminent Domain History." Now. Politics & Economy. The History of Eminent Domain PBS. 27
Nov. 2005 <http://www.pbs.org/now/politics/domain.html>
- Kelo v. New London, Connecticut. No. 04-108 Supreme Ct. of the US. 23 June 2005.
- "Kelo v. New London." Now Politics & Economy. The Debate over the Eminent Domain. Kelo v.
New London... 10 Nov. 2005 <http://www.pbs.org/now/politics/domaindebate.html>
- Khawaja, Irfan. "Don't Forgive Them, for they Know Exactly What They've Done: A Comment on
the Kelo Case" History News Network. 26 June 2005
<http://hnn.us/blogs/entries/12679.html>.
- Lane, Charles. "Justices Affirm Property Seizures." Washingtonpost.com 24 June 2005:
Washington Post. 10 Nov. 2005 <<http://www.washingtonpost.com/wp-dyn/content/article/2005/06/23/AR2005062300783.html>>
- "U.S. Constitution: Fifth Amendment." Findlaw: U.S. Constitution: Fifth Amendment Findlaw. 11
Nov. 2005 <<http://caselaw.lp.findlaw.com/data/constitution/amendment05/>>