

Kelo v New London (2005)

FACTS OF THE CASE The city of New London, Connecticut, experienced a significant economic decline after the closure of a military base. The city formed the New London Development Corporation (NLDC), which allowed the city to lease properties in one neighborhood to a private developer to build hotels, office spaces, and some high-end residential units. The development plan for the property would require the current residents to move out. The City of New London forced the homeowners to sell their property using eminent domain. Eminent domain is the ability of a local government, under the Fifth Amendment, to take over private property for “public use” as long as the owners are given due process and just compensation.

Typically, eminent domain is used when a local government needs to build or expand a road, build a bridge, or otherwise provide for public use and benefit. The Kelos refused to move out of their home.

ISSUE

May a local government take private property for economic development purposes?

ARGUMENTS

KELO The property in this case is not in a run-down area, and it is not hazardous. The city wants this property only because it could receive more tax revenue if the property were developed differently. If states are allowed to take property in order to promote economic development, there would be no limit to what would qualify as “public use.” Without limits, states could essentially control all property.

Moreover, the state should not be allowed to take private property and give it to another private entity. Traditionally, when states use eminent domain, the property taken is used by the government to build some type of infrastructure project. The public purpose served should be direct and immediate.

NEW LONDON The city of New London was suffering from an economic downturn, and the tax revenue to be gained would substantially benefit the public. Economic development can be as important to a community as an infrastructure project. An area should not have to be in shambles before a city can step in and take property to create economic development.

The Fifth Amendment simply says that property should not be taken without due process and just compensation. The city followed required procedures, and the homeowners in this case were paid enough for their property. Additionally, in this case the property would be owned by the city and leased to the developer. A basic premise of federalism allows localities to make decisions based on their situations—what works in Connecticut might not work in Utah.

EXPLORING THE ESSENTIAL QUESTION

Moot Court You will be assigned to one of three groups: lawyers for Kelo, lawyers for New London, or Supreme Court justices. You will prepare for a moot court of this case. The lawyers for each side should develop arguments to present during oral argument and prepare to answer questions from the justices. The justices should prepare questions to ask the lawyers during oral argument. When you argue the case, each team will have five minutes to present its side, and the justices will be allowed to ask the lawyers questions throughout their five minutes. The justices will then vote and announce their decision explaining their reasons. After the moot court is complete, write a persuasive essay or blog that reflects your personal opinion about this issue.

YOU BE 
the **JUDGE**