

# Land war goes before Supreme Court

## Homeowners ask justices to block city's use of eminent domain

From Bill Mears  
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**WASHINGTON (CNN) -- A fight by homeowners to save their New London, Connecticut, neighborhood from city officials and private developers -- an important property rights case with an unusual twist -- will reach the U.S. Supreme Court on Tuesday.**

At issue is whether governments can forcibly seize homes and businesses, for private economic development. Under a practice known as eminent domain, a person's property may be condemned and the land converted for a greater "public use." It has traditionally been employed to eliminate slums, or to build highways, schools or other public works.

The New London case tests the muscle of local and state governments to raise what they see as much-needed revenue, which they argue serves a greater "public purpose." Legal analysts said they see the case as having major implications nationwide in property rights and redevelopment issues.

Eminent domain is a practice indirectly sanctioned by the U.S. Constitution. The Fifth Amendment's protection against unwarranted government interference adds a caveat: "Nor shall property be taken for public use, without just compensation."

The Supreme Court last addressed the issue in 1954, allowing private property to be seized in so-called distressed or blighted neighborhoods. Since then, various lower courts have said the mere opportunity to create jobs or generate tax revenue is enough to apply eminent domain.

A recent study by the property rights group Institute for Justice, which is representing the New London homeowners in court, found about 10,000 cases from 1998 to 2002 of local governments in 41 states using or threatening to use eminent domain to transfer home and properties from one private owner to another. Courts in at least six states have upheld the practice.

Such battles have long been a staple of U.S. westward expansion. In the 19th century, farmers, railroads, miners and ranchers competed for the opportunity to exploit rural resources.

Today, the disputes have become more urban-based, focusing on stadiums, office parks and shopping centers. Courts and legislatures around the country have had widely differing standards on when eminent domain can be used.

## City, homeowners square off

In the New London case, city officials there argue that eminent domain also should apply to "economic development" even if done privately since it would increase tax revenue and improve the local economy.

Susetta Kelo and six other homeowners have said the move is more about enriching well-connected developers.

"It's obvious they don't want us here, and they've done everything in their power to make us leave," Kelo said. "They are simply taking our property from us private owners and giving it to another private owner to develop."

Kelo said she and her husband, Tim, bought their two-bedroom pink Victorian in the city's Fort Trumball waterfront neighborhood in 1997 for \$50,000. The area is in a working-class section of New London, overlooking the Thames River and Long Island Sound.

"It was like I'd been here all my life. It was just a warm and inviting feeling," she said.

But city officials disagree with that label.

"New London has been and is classified by the state of Connecticut as a distressed municipality," City Attorney Thomas Londregan said. "When we lost the naval base, we lost about 18,000 jobs."

Londregan said that while the city has never claimed the Fort Trumball neighborhood is blighted, the area has suffered economically. It has been zoned since 1929 as industrial despite the presence of existing private homes.

"This area had a junkyard, which had to be cleaned up at great expense," Londregan said. "They had oil tanks, commercial big storage tanks. There is a railroad yard down there."

## Pfizer plant spurred city action

In 1998, pharmaceutical giant Pfizer Inc. agreed to build a \$270 million global research facility next to the area in dispute. Two years later, the New London City Council sought to accommodate Pfizer's investment and adopted a redevelopment plan to transform 90 acres of Fort Trumball.

The city and state would contribute millions of dollars. Eminent domain power was transferred to the New London Development Corp., a private, nonprofit group of citizens, business owners and community leaders.

It wants to build a conference center, hotel complex, offices, condominiums, and eventually, an aquarium in New London, which is about 125 miles east of New York City.

The day before Thanksgiving 2000, Kelo said, a notice was posted on her East Street home, informing her and her husband that they had four months to move out or police would remove them and their belongings.

"I really didn't want to sell my property so I wasn't interested at all in the offer," she said. "And they simply told me if you're not going to sell, we're going to take your property by eminent domain."

Most of Kelo's neighbors have moved on, leaving large parts of Fort Trumball bulldozed amid rubble. About 80 homes and businesses are gone, leaving only seven property owners and 15 parcels remaining.


The city government said it offered Kelo and her neighbors a fair price for their properties.

The Connecticut Supreme Court agreed with New London, ruling that promoting economic development outweighed private property rights. Homeowners argued that since their neighborhood is neither a slum nor crime-ridden, it does not meet legal standards for application of eminent domain.

The case is Kelo v. City of New London (04-0108). A ruling is expected by June.

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