

Eminent Domain

C. Grundke

8/24/06

“I Want ...”

“YOU!”

1914

1941





And, “We Went!”



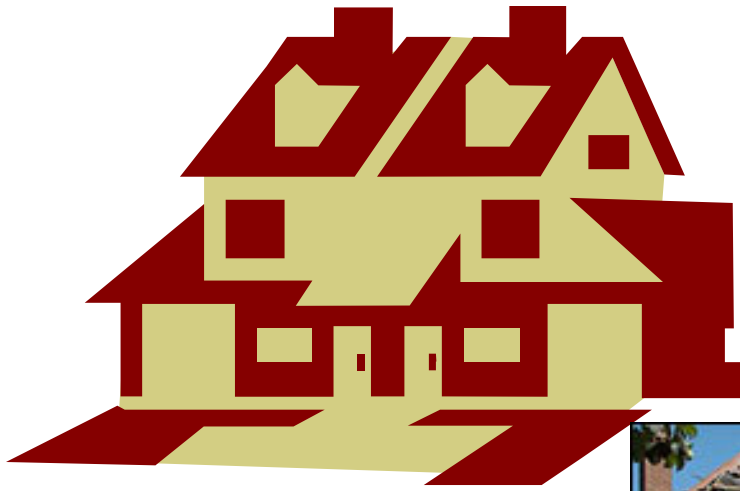
“I Want ...”

**“YOUR
HOME!”**

2006



How Can This Happen?



8/24/2006

Eminent Domain - C. Grundke

5

Define it as **“Blighted”**

- The dictionary Definition of Blighted is:
 - An extremely adverse environmental condition, such as air pollution.
 - Something that impairs growth, withers hopes and ambitions, or impedes progress and prosperity.

Legal Definition of Blight

- "Blighted area" means an area within a municipal corporation, which area by reason of the presence of a substantial number of slums, deteriorated or deteriorating structures, predominance of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility, or usefulness, unsanitary or unsafe conditions, deterioration of site or other improvements, diversity of ownership, tax or special assessment delinquency exceeding the fair value of the land, defective or unusual conditions to title, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, substantially impairs or arrests the sound growth of a municipal corporation, retards the provision of housing accommodations, or constitutes an economic or social liability and is a menace to the public health, safety, morals, or welfare in its present condition and use.
-
- The following are some examples of "Blighted Homes or Businesses."

Boynton Beach, FL



8/24/2006

Eminent Domain - C. Grundke

8

Cleveland, OH



8/24/2006

Eminent Domain - C. Grundke

9

Long Branch, NJ



8/24/2006

Eminent Domain - C. Grundke

10

Norwood, OH



8/24/2006

Eminent Domain - C. Grundke

11

An Example - The Players

- City of New London, Connecticut.
- New London Development Corporation, a private developer.
- Susette & Dave Kelo, home owners.
- **“Institute for Justice,”** a volunteer legal aide group fighting Eminent Domain abuse.
- **“Castle Coalition,”** activist group supporting residents affected by Eminent Domain.

Background

In 1998, pharmaceutical giant Pfizer built a plant next to Fort Trumbull. The City determined that someone else could make better use of the land than the Fort Trumbull residents. The City handed over its power of eminent domain—the ability to take private property for public use—to the New London Development Corporation (NLDC), a private body, to take the entire neighborhood for private development. As the Fort Trumbull neighbors found out, when private entities wield government’s awesome power of eminent domain and can justify taking property with the nebulous claim of “economic development,” all homeowners are in trouble.

“Kelo vs New London”



Susette & Dave Kelo received notice of condemnation from the NLDC (New London Development Corporation) the day before Thanksgiving 2000.



Others Affected



Bill Von Winkle's business is one of the 15 properties condemned for "economic development."

Suzanne and Matt Dery lost their home of 20 years to benefit private developers.



8/24/2006

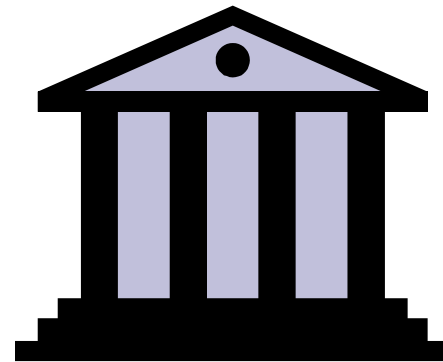
Eminent Domain - C. Grundke



Resident Rallye

“Institute for Justice”

- Took up the case of “Kelo vs New London”
- Petitioned for decision by the Supreme Court in Feb 2005.



Supreme Court found in favor of the New London Development Corporation (NLDC) in June 2005

Results

- The Kelo's continued to fight for their rights with help from concerned citizens and groups such as "Castle Coalition."
- Partial justice was achieved when the developer agreed to relocate the Kelo Home which was then moved to another nearby location after tremendous effort on the part of the Kelo family.

Typical Eminent Domain Process

- Discussion between City and Developer.
- Changes to Master Plan.
- Public hearings designating an area as “Blighted” or a “Redevelopment Zone.”
- Vote that property or area is “Blighted.”
- Hearing on authorization of “Eminent Domain.”
- Vote authorizing “Eminent Domain.”
- Appraisal.
- “Good Faith” negotiations.
- Condemnation.

Warning Signs!

- City passes ordinance stating that they have no plans considering **“Eminent Domain.”**
- The “Ordinance” is **not legally binding** and can be rescinded within minutes by a simple vote of the city governance.

Where Are We?

- We have rezoned parts of our property.
- There is a Master Plan.
- The City would like to develop our available land.

- The City is passing an “Ordinance” that states they do not plan on imposing “Eminent Domain.”

California

- **Is one of the most active states in condemning properties for the benefit of other private parties.**
- **Currently, news reports indicate 33 different projects involving condemnation for private use in California.**
- **California courts sometimes rein in redevelopment agencies, chastising them for labeling areas blighted when they are not.**
 - **Two federal courts have blocked condemnations for Costco stores because, the courts held, the condemnations lacked a public use.**
- **On the other hand, other courts refuse to step in, allowing the designation of a huge part of San Jose as blighted, with such shocking symptoms of blight as wet leaves on a private tennis court.**

California (cont)

- **Of California's 478 cities, 386 have an active Redevelopment Agency.**
 - **A Redevelopment Agency is a State authorized layer of government that is created without Federal Funds, Rules, or Requirements.**
 - **State law allows a city council to create a Redevelopment Agency to administer one or more project areas within its boundaries and can encompass an entire city.**

California (cont.)

- **Proponents of a Redevelopment Agency justify it by the projected increase in tax revenue a city is expected to derive:**
 - **Current California Redevelopment consumes 10% of all state wide property taxes which is a total indebtedness in excess of \$61 billion.**
 - **In 1989 Orange County tax loss was \$157,572.**
 - **And, in 2004 it was \$15,880,000.**

What Should We Do?

- Verify the legality of the Ordinance.
- Keep aware of any city discussion concerning Eminent Domain or a Redevelopment Agency.
- Work with other groups toward passing a state initiative limiting Eminent Domain Abuse.



The End

“Institute for Justice”

www.ij.org

“Castle Coalition”

www.castlecoalition.org