

Patrick Angulo

AP United States Government

Hiland – 1

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Eminent Domain

Written into the United States Constitution, eminent domain is the transfer of property from one party to another, with just compensation.¹ In particular, today's debate focuses on the transfer of property to a private party, also known as private-to-private transfers. Although this may sound unsettling, it is only when we take a close look at this practice that we realize that this practice is a beneficial, and constitutionally protected action. In my speech I will first demonstrate that decades of court precedence upholds this practice. I will then show how such a transfer is a necessary and beneficial tool for local and state governments. It is for these two reasons and others that I ask you oppose today's resolution: The power of eminent domain should prohibit the seizure of private property and transfer to another private party.

As previously stated, the practice of eminent domain is established in the US constitution. Therefore, when addressing this constitutional issue, the first place we should look is the United States Supreme Court, the highest authority on this issue. For over fifty years, the Supreme has looked at the very same question we are answering today and has stated, again and again that the government can transfer private property from one party to another. *In Berman v. Parker* in 1954, the court stated that private property could be transferred to a private party so long as just compensation was paid,

¹ Britannica Online, "Eminent Domain," <http://school.eb.com/eb/article-28549?query=eminent%20domain&ct=> (accessed October 20, 2008).

and the transfer was for a public purpose.² Thirty years later, in 1984, the Supreme Court made a similar decision in the case of *Hawaii Housing Authority v. Midkiff*.³ Once again, the Supreme Court decided that with just compensation and a public purpose demonstrated, private-to-private transfers were completely constitutional. The most recent example occurred in 2005 in *Kelo v City of New London*. In this case, the court once again decided that eminent domain, even with private-to-private transfers, is constitutional as long as just compensation and a public purpose is demonstrated.⁴

In case after case, the Supreme Court has reached the same conclusion – eminent domain allows the transfer of property from one private party to another.⁵ In case after case, the courts are on my side on this issue. They have stated, again and again, that eminent domain allows private-to-private transfers, so long as just compensation and public purpose are demonstrated.

Public purpose is phrase I have repeated many times, and indeed it is because it plays a major role in today’s debate. It is understood that things such as roads, schools,

² Gale Opposing Viewpoints, “Berman v. Parker,” http://find.galegroup.com/ovrc/retrieve.do?subjectParam=Locale%2528en%252C%252C%2529%253AFQE%253D%2528su%252CNone%252C15%2529berman%2Bv%2Bparker%2524&contentSet=GSRC&sort=Relevance&tabID=T001&sgCurrentPosition=0&subjectAction=DISPLAY_SUBJECTS&prodId=OVRC&searchId=R1¤tPosition=1&userGroupName=atla65426&resultListType=RESULT_LIST&sgHitCountType=None&qrySerId=Locale%28en%2C%2C%29%3AFQE%3D%28SU%2CNone%2C15%29berman+v+parker%24&inPS=true&searchType=BasicSearchForm&displaySubject=&docId=EJ2303200775&docType=GSRC (accessed October 20, 2008).

³ Gale Opposing Viewpoints, “Hawaii Housing Authority v. Midkiff,” http://find.galegroup.com/ovrc/retrieve.do?subjectParam=Locale%2528en%252C%252C%2529%253AFQE%253D%2528su%252CNone%252C35%2529Hawaii%2BHousing%2BAuthority%2Bv.%2BMidkiff%2524&contentSet=GSRC&sort=Relevance&tabID=T001&sgCurrentPosition=0&subjectAction=DISPLAY_SUBJECTS&prodId=OVRC&searchId=R4¤tPosition=1&userGroupName=atla65426&resultListType=RESULT_LIST&sgHitCountType=None&qrySerId=Locale%28en%2C%2C%29%3AFQE%3D%28SU%2CNone%2C35%29Hawaii+Housing+Authority+v.+Midkiff%24&inPS=true&searchType=BasicSearchForm&displaySubject=&docId=EJ2303200381&docType=GSRC (accessed October 20, 2008).

⁴ “Susette Kelo et al. v City of New London et al.,” <http://www.jud.ct.gov/external/supapp/Cases/AROCr/CR268/268cr152.pdf> (accessed October 20, 2008).

⁵ Ebscohost, “Re-examining Eminent Domain,” <http://web.ebscohost.com/ehost/pdf?vid=11&hid=120&sid=70fa9278-e3aa-46e7-a73f-4abc3171f750%40sessionmgr3> (accessed October 20, 2008).

and libraries satisfy the 'public use,' requirement of the Fifth Amendment. However, the Supreme Court has held for over fifty years that private endeavors such as hospitals and factories satisfy the 'public use' requirement as well. In cases of private-to-private transfers, public use can be established through public purpose: the creation of jobs, urban renewal, and protecting the health and well-being of the community from blighted areas.

In conclusion, the court has stated for over fifty years that eminent domain includes that power of private-to-private transfers with just compensation. Furthermore, this use of eminent domain, with a public purpose, benefits the community through creation of jobs and urban development.

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