

## **Eminent Domain and *Kelo v. City of New London***

### **Overview**

In this lesson, students will explore the governmental power of eminent domain and gain an understanding of its relationship to the Fifth Amendment's protection of private property. Students will watch a DVD about the Supreme Court case *Kelo v. City of New London* and then participate in a city council simulation based on the case. By studying the *Kelo* case and its impact on the nation, students will gain a deeper understanding of the conflicting interests involved in eminent domain cases.

### **Grades**

10-11

### **NC Essential Standards for American History: The Founding Principles, Civics and Economics**

- FP.C&G.2.1: Analyze the structures of national, state and local governments in terms of ways they are organized to maintain order, security, welfare of the public and the protection of citizens
- FP.C&G.2.3: Evaluate the U.S. Constitution as a "living Constitution" in terms of how the words in the Constitution and Bill of Rights have been interpreted and applied throughout their existence
- FP.C&G.2.6: Evaluate the authority federal, state and local governments have over individuals' rights and privileges
- FP.C&G.2.7: Analyze contemporary issues and governmental responses at the local, state, and national levels in terms of how they promote the public interest and/or general welfare
- FP.C&G.3.1: Analyze how the rule of law establishes limits on both the governed and those who govern while holding true to the ideal of equal protection under the law
- FP.C&G.3.3: Analyze laws and policies in terms of their intended purposes, who has authority to create them and how they are enforced
- FP.C&G.3.6: Explain ways laws have been influenced by political parties, constituents, interest groups, lobbyists, the media and public opinion
- FP.C&G.5.2: Analyze state and federal courts by outlining their jurisdictions and the adversarial nature of the judicial process

### **NC Essential Standards for American History II**

- AH2.H.2.1: Analyze key political, economic, and social turning points since the end of Reconstruction in terms of causes and effects (e.g., conflicts, legislation, elections, innovations, leadership, movements, Supreme Court decisions, etc.).
- AH2.H.2.2: Evaluate key turning points since the end of Reconstruction in terms of their lasting impact (e.g., conflicts, legislation, elections, innovations, leadership, movements, Supreme Court decisions, etc.).

### **Essential Questions**

- What is eminent domain?
- What restrictions does the Fifth Amendment place on the exercise of eminent domain? ("...nor shall private property be taken for public use, without just compensation.")
- What was the Supreme Court's decision in *Kelo v. City of New London*?
- How does private economic development satisfy the "public use" requirement?

### **Materials**

- Eminent Domain Political Cartoon, attached
- *Voices of American Law* Documentary of *Kelo v. City of New London*

- DVD available at <http://web.law.duke.edu/voices/>
- Television and DVD Player
- *Kelo v. City of New London* Viewer's Guide and Answers, attached
- City Council Simulation Instructions, attached
- Abridged Supreme Court Opinion, *Kelo v. City of New London*, attached
- "Ruling Sets Off Tug of War Over Private Property," attached
- North Carolina Eminent Domain Law, attached
- "After the Homes are Gone", attached
- "Apology Adds An Epilogue To Kelo Case: Supreme Court Justice's Startling Apology Adds Human Context To Tough Ruling", attached

### Duration

1 or 1 ½ block periods

### Procedure

#### Introduction to Eminent Domain

1. As a warm-up, project the attached political cartoon and discuss:
  - What do you see here? What symbols, objects, etc. do you notice in this image?
  - What do you think the arm might symbolize and why?
  - What do you think this political cartoon is about? What message is the artist trying to convey?
  
2. Most likely, students will come to the conclusion that the political cartoon is insinuating that the government can take one's home. Once this concept has been brought up, further discuss:
  - What does the government need property for? (Examples: building or expanding roads, utility lines, schools, parks and nature preserves, railroads, etc)
  - How does the government get the land it needs? (Generally, it offers to purchase the land from the landowner.)
  - How much should the government have to pay for land purchased due to public need?
  - What if the landowner doesn't want to sell land that the government needs?
  - What reasons should the government have to give before taking someone's property?
  
3. At this point, introduce the concept of **eminent domain**. Provide students with the following vocabulary terms:
  - **Condemn** – to appropriate (property) for public use
  - **Eminent domain** – the right of a government to appropriate private property for public use, usually with compensation to the owner
  - **Taking** – a government action assuming ownership of real property by eminent domain
  
4. Explain that the **Fifth Amendment** to the Constitution provides some restrictions on the government's power of eminent domain: "...nor shall private property be taken for public use, without just compensation." (Teacher may project text for the class to read.) Discuss:
  - In your opinion, what would be a valid reason for the government to take someone's property for "public use?"
  - (Introduce students to the term **blight**: something that impairs growth, withers hopes and ambitions, or impedes progress and prosperity. Ask students to reconsider the question imagining that there is a really bad neighborhood in their town, or "blighted area.") Should the government try to improve blighted areas?
  - How should it be determined if an area is "blighted"?

#### Documentary: *Kelo v. City of New London*

5. Tell students that these issues were raised in the Supreme Court case *Kelo v. City of New London*, which students will be learning about by watching a documentary. While a synopsis of the case is provided for teacher reference, students need no further introduction to the film.

- **Teacher Reference - Synopsis of the Case**

After years of economic problems, Pfizer Inc. offered to build its new global research facility in beleaguered New London, Connecticut. City leaders saw this as an opportunity to improve New London's economy and tax base, and they secured state funding to redevelop the area around the Pfizer site known as the Fort Trumbull neighborhood. The area contained a sewage treatment plant, abandoned rail yard, junkyard, a few businesses, a historic fort and several private residences. The City saw the area as poorly planned and unattractive and decided to develop a plan to replace most of the existing structures with office and retail space, a luxury hotel and public space along the waterway. Many Fort Trumbull residents, however, were unwilling to sell their homes. Homeowners' protests failed however, and the city moved to take their homes through eminent domain. Concerned about the destruction of their neighborhood and the seeming indifference of the city, Susette Kelo and a few other residents contacted the Institute for Justice and sued the city. The dispute went all the way to the Connecticut Supreme Court, which upheld the city's exercise of eminent domain. The Supreme Court granted certiorari and eventually affirmed the decision of the Connecticut Supreme Court. The Supreme Court reasoned that economic redevelopment was a public purpose, consistent with prior interpretations of the Fifth Amendment's "public use" requirement. The Court accorded heavy deference to the city's determinations about the poor condition of the neighborhood and the positive impact the redevelopment would have. According to the Court, the fact that a private individual benefits from the exercise of eminent domain does not necessarily violate the "public use" requirement. There must be some evidence of corruption or ulterior motives to establish a violation. The Court's decision provoked widespread controversy and led several states to toughen their eminent domain laws (see attached *New York Times* article).

- **Viewing Options**

There are several ways you can choose to have the class view the documentary:

- You may choose to have the class watch the video with no pauses and have students work on the attached Viewer's Guide while watching.
- *Suggested Viewing*: You may choose to pause the video at the times outlined below and ask the class to discuss the questions listed. Students may complete the questions below in addition to or instead of the questions on the Viewer's Guide.
  - **Discussion Point #1:** (*Pause at 5.08; right after Ms. Kelo describes the city tearing down homes in her area*) Ask students how they would feel if the government tried to take their homes. Would it make a difference if the government was trying to improve the economy of the whole area, as it was in New London?
  - **Discussion Point #2:** (*Pause at 12.47; right after the documentary shows the text from the Constitution*) Since students have seen details of the proposed development, ask them if they think the economic development should be considered "public use."

### **Movie Interlude: New London City Council Simulation**

6. Once the documentary reaches 17.10 minutes (before the decision by the New London City Council is announced) stop the DVD. Tell students they are now in charge of determining what to do regarding the redevelopment of Fort Trumbull by participating in a city council meeting where the New London development plan is being considered. Divide the class evenly into six groups. Distribute the City Council and Stakeholder Instruction Sheets to the appropriate groups, as well as the Redevelopment Proposal. Allow groups 5 minutes to review their instructions. Then, explain the following to summarize the city council meeting process, projecting the meeting agenda from below, and accepting any questions students may have:

- **City Council:** (this group should be comprised of 5-7 students; assign a student with strong leadership skills the role of Mayor; this group should receive the *City Council Instructions*, the *New London Redevelopment Plan*, and the *Meeting Agenda*, attached) Under the Mayor’s leadership, you will spend the next 20 minutes preparing for your City Council meeting. Review the instructions and the New London Redevelopment plan provided to you. As a council, discuss your first impressions of the redevelopment plan. Then, review the meeting agenda listing the groups that will be presenting to you today. Infer what you think these groups may say to you today. As you discuss each group, as a council you must create 2-3 follow-up questions for each group that you will ask after their presentation.
- **Stakeholder Groups:** (Provide these students with *Stakeholders Instructions*, *New London Redevelopment Plan*, and the *Meeting Agenda*, attached) You will spend the next 20 or more minutes developing a presentation to the City Council; your goal is for the Council to either support or reject the redevelopment plan. You must figure out how to prepare an organized, creative, and motivational presentation. Also, you should spend some time reviewing the agenda and anticipating what the other presenting groups might say. This will help you know what you are up against and also what you should say to contradict the groups who may oppose you.

**\*Teacher note:** This simulation is designed to be entirely student led, with the student playing the Mayor leading the simulation. During the simulation, assist this student in moving things along when needed, but try to allow the students to have control of the simulation as much as possible.

7. Once all groups are ready to present, arrange the room so that the Mayor and Council members are facing the audience. Place an additional table and/or chairs between the audience and Council (facing the Council). This is where students will come to present. Remind students of the meeting format:

Mayor calls meeting to order and gives overview	1-2 minutes
Presentation from the New London Development Corporation	3-5 minutes
Follow-up questions from City Council	2 minutes
Presentation from Coalition to Save Fort Trumbull	3-5 minutes
Follow-up questions from City Council	2 minutes
Presentation from the Pfizer Corporation	3-5 minutes
Follow-up questions from City Council	2 minutes
Presentation from New London Landmarks	3-5 minutes
Follow-up questions from City Council	2 minutes
Presentation from Fort Trumbull Citizens for Change	3-5 minutes
Follow-up questions from City Council	2 minutes
Mayor can call for any final comments or questions from presenting groups and Council members (if time permits)	3-5 minutes
Mayor leads open deliberation of City Council	10 minutes

8. The teacher should review expected behavior for the simulation, noting expectations such as:
  - Remain respectful at all times and encourage one another.
  - Try your best and take the simulation seriously.
  - Listen when others are speaking. Do not discuss your presentation or rebuttals while other groups are presenting.
  - Maintain order and professionalism throughout the hearing, whether you agree with what is being said or not.
  - No name calling, eye rolling, smacking teeth, disruptive comments, etc.
  - Have fun!

9. Once the expectations are clearly defined, ask the Mayor to call the meeting to order and conduct the simulation. After all groups have presented and been questioned by council members, and if time permits, the Mayor can call for final comments from the presenting groups, or allow groups to ask questions of one another to affect the Council's decision. If time does not permit, the Mayor should thank all presenters for their time. The teacher should determine one of the following means of closing the activity:
  - The Mayor can lead the Council in an open deliberation regarding the redevelopment proposal. (Ensure students understand that in a realistic situation, this would not necessarily be the case.) Presenting citizen groups should only listen at this point. The deliberation can last until council reaches a unanimous decision, or if debate ensues, the Mayor can be instructed to "table the discussion until the next meeting." If consensus is not met, reflect on this in the closing discussion.
  - Rather than having the Council deliberating as a group, a quicker option is to have each councilmember state his or her current opinion of the proposal, noting how he or she would vote and discussing which of the presenters affected his or her opinion.
  
10. Based on the presentations, have all students discuss using the following questions:
  - What do you think of the opinions and/or decision represented by the Council?
  - How would you vote if you were on the Council? Why?
  - The Fifth Amendment to the Constitution states that "nor shall private property be taken for public use, without just compensation." What do you think the writers of the Constitution meant by the phrase "public use"? Would you consider taking property under the New London Redevelopment Proposal "public use"?
  - The Supreme Court has approved generally the widespread use of the power of eminent domain by federal and state governments in conjunction with private companies to facilitate urban renewal, destruction of slums, erection of low-cost housing in place of deteriorated housing, and the promotion of aesthetic values as well as economic ones. Do you think that "public use" extends to making an area more attractive or economically strong? Explain.
  
11. After the presentations, continue viewing the rest of the documentary. Teachers can choose to pause at the noted points below for further discussion, or play the remainder of the DVD with no pauses.
  - **Discussion Point #3:** (*Pause at 18.06; right after the Coalition members says "Let's keep trying."*) How did the City Council's decision compare to the class City Council simulation? Do you agree with the lawyer's appraisal that just because the New London City Council did not agree with the Coalition, it does not mean that they did not listen? Was this a once in a lifetime chance for New London?
  - **Discussion Point #4:** (*Pause at 21.21 after the lawyer describes the challenge of leaving the houses.*) Do you agree with the lawyer that leaving random lots spread out would make it impossible to redevelop the whole area? Why or why not?
  - **Discussion Point #5** (*Pause at 25.16 after the lawyer describes the changes made to Fort Trumbull*) Which lawyer, in your opinion, makes a stronger argument, the lawyer from the Institute of Justice or the New London attorney? Explain.

**Court's Opinion: *Kelo v. City of New London***

12. Teachers can distribute copies of the attached Abridged Supreme Court Opinion, have the students read it, then discuss as a class; or, teachers can simply summarize and explain the Court's final decision to the class:
  - The Supreme Court, in a 5-4 decision, ruled in favor of New London. The Court first stated its desire to defer to the judgments of local governments. The Court then said that the New London plan appeared to be a carefully considered effort to address the problems in the city. Economic development, according to the Court, is a valid public purpose and is sufficient to justify the exercise of eminent domain.
  - The Court relied on legal precedent in making its decision. The two main cases were *Midkiff* and *Berman*.

- *Hawaii Housing Authority v. Midkiff*, 467 U.S. 229 (1984) – The Court upheld Hawaii’s use of eminent domain to redistribute land more evenly in the state. A small group of wealthy individuals owned the majority of the state’s land, causing serious problems in real estate markets. The state used eminent domain in order to address these issues.
- *Berman v. Parker*, 348 U.S. 26 (1954) – The Court upheld a Washington D.C. plan to redevelop a blighted area. The Court determined that government could take private land for a public purpose (not just a “public use”), so long as it paid just compensation.

13. After explaining the holding and/or having students read the edited opinion, ask students for their reactions to the Court’s decision:

- Was the Court’s decision consistent with the Council’s decision and/or our opinions during the city council simulation?
- Do you agree with the Court’s holding? Why or why not?
- What aspects of the Court’s decision do you find most and least persuasive?
- How do you think judges should distinguish between public and private uses?

### Additional Activities

- **“Ruling Sets Off Tug of War Over Private Property”**: Distribute copies of the attached New York Times article and have the students read it. Allow students to discuss their reactions to the following questions:
  - Why do you think this Supreme Court decision was so controversial?
  - What do you think of the way Santa Cruz is exercising eminent domain?
  - Do you think this kind of government action is what the Supreme Court intended?
- **Eminent Domain in NC**: Inform the students that North Carolina’s law on eminent domain was modified after the Kelo case. Pass out copies of the attached North Carolina law regarding the rules for eminent domain. Instruct students to summarize each section in their own words.
- **Eminent Domain Essay Assignment**: Instruct students to prepare a short essay (5+ paragraphs) discussing their perspective on eminent domain after today’s class. Essay’s should include arguments that students found most persuasive during class discussion and the City Council activity. Make sure to incorporate information from other sources discussed in the lesson, such as the documentary, the Supreme Court opinion, the two precedents discussed in class and the New York Times article. Remind students to:
  - Develop your perspective on the meaning of eminent domain.
  - Think about the purpose and context of your article.
  - Organize your essay so that your ideas progress logically.
  - Include relevant details that clearly develop your essay.
  - Edit your essay for standard grammar and language usage.

\*If it has not already been distributed, give the class the “Abridged Supreme Court Opinion” handout to read before completing the assignment.

- **Kelo’s Aftermath**: Provide students with a copy of the attached “After the homes are gone” handout, which describes the aftermath of the *Kelo* decision four years later. Have students read the editorial and answer the attached questions individually or in pairs. After students have finished reading and answering the questions, discuss the questions as a class.

### Differentiation

#### Students with Special Needs

- Ensure that students are placed in mixed ability groups.
- Students who do not work well in small groups may work alone. Give them the Proposed Development plan, and tell them that they are a City Council member who must decide whether to pass the plan or not. Have them write out their response and reasoning.

- Students may have more difficulty with reading the court decision. Access a brief description of the case and decision at [www.oyez.org](http://www.oyez.org). Enter case name in the search bar in the top right hand.

**AIG**

- Have the students choose one of the additional activities to complete.

Eminent Domain Political Cartoon



Source: <http://www.inthesetimes.com/images/29/22/domain.jpg>



Name: \_\_\_\_\_

***Kelo v. New London Viewer's Guide***

1. Name one of the problems facing New London that is mentioned at the beginning of the documentary.
2. What company offered to build its global research facility in New London?
3. What is the New London Development Corporation (NLDC)?
4. Had New London tried "urban renewal" prior to this plan?
5. Name at least two problems the city saw with the Fort Trumbull neighborhood.
6. In the new plan for Fort Trumbull, what did the City plan to build?
7. What main argument did the Institute for Justice make when it filed suit against the city?
8. What does the city say makes its plan different from the Wal-Mart example?

***Kelo v. New London Viewer's Guide- ANSWER KEY***

1. Name one of the problems facing New London that is mentioned at the beginning of the documentary.  
*low tax base, closing of the Navy base, declining population, high unemployment*

2. What company offered to build its global research facility in New London?  
*Pfizer*

3. What is the New London Development Corporation (NLDC)?  
*NLDC is a non-profit agent of the city. Its goal is to create more tax revenue and to improve the economic health of New London.*

4. Had New London tried "urban renewal" prior to this plan?  
*Yes*

5. Name at least two problems the city saw with the Fort Trumbull neighborhood.  
*Eighty percent of commercial properties were vacant. The property also contained an abandoned railyard, a junkyard, polluted "brownfields," a sewer plant and an oil tank field.*

6. In the new plan for Fort Trumbull, what did the City plan to build?  
*offices, shops, residential areas (condos), a museum*

7. What main argument did the Institute for Justice make when it filed suit against the city?  
*Promoting private commercial interests and transferring property "from A to B" are not "public uses" under the 5th Amendment.*

8. What does the city say makes its plan different from the Wal-Mart example?  
*The city's plan included environmental remediation, new roads, sewers and means of public access, all of which (according to the city) are valid public uses.*

## Proposed New London Redevelopment Plan



New London has designated the nonprofit New London Development Corporation (NLDC) to prepare and implement the following plan, including acquiring the properties slated for redevelopment through purchase or eminent domain. Goals of the NLDC:

- increase the city's tax base,
- increase the number of jobs, and
- improve the quality of life for New London residents.

### **Pfizer's planned Global Development Facility (GDF)**

The Pfizer Board of Directors have approved a plan for a \$300 million Global Development Facility in New London. The facility will employ 1,900 workers with a \$125 million annual payroll by 2002. The new GDF will require a large suburban or rural tract of land next to a major highway for its construction.

Complementing Pfizer's investment, a state grant of \$78 million will be used to further redevelopment.

### **Vision of the Redeveloped Fort Trumbull Area**

The Fort Trumbull area presents the perfect tract of land for this project. The Fort Trumbull area includes the unoccupied Naval Undersea Warfare Center (NUWC), the regional water pollution control authority, and residential and commercial properties situated on 115 privately owned parcels. The area is considered poorly planned and unattractive.

The vision of this redevelopment plan is for the new Pfizer Global Development Facility, with an investment of \$180 million in private funds, to be the centerpiece of a concentrated reuse of the Fort Trumbull peninsula. With a combination of Pfizer's investment and state grant funds, the redeveloped area would include:

- Pfizer's Global Development Facility offices
- conference center
- fitness center
- marina
- luxury condos\*
- 5-star hotel\*
- a new Coast Guard Museum at Fort Trumbull
- refurbishment of the historic Fort Trumbull into a state park
- public access to the waterfront, with planned pedestrian and bike paths leading into downtown
- upgrade of the area's utilities and infrastructure
- improving the odor control and other systems of the city's wastewater treatment plant
- purchase and environmental abatement of an adjacent scrap yard

*\*The residential and hotel portions of the project represent about \$50 million worth of taxable property; the value of the office buildings have not yet been calculated.*

### **Action Steps to Implement Plan**

Acquisition of numerous Fort Trumbull residential and business properties is required.

## City Council Instructions

### The Mayor

**About You:** You are in your sixth term as New London's mayor, and you are a lifelong New London resident. You feel a city's future is in its constant development and economic progression. Having watched your city deteriorate over the years, you are eager to find a solution to the city's economic problems. Many residents have told you that they think the development plan is a godsend for the troubled city. But you are also sympathetic to the people who live in the Fort Trumbull area. You hate the idea of throwing people out of their homes, and most of all, you hate being put in the middle of this controversy. You hope the Council can come to a decision that will please all New London residents.

#### **Instructions:**

You and your fellow council members are hearing from various groups of community members to determine whether or not you will approve or reject the New London Redevelopment Plan. Today, as you listen to citizen opinions, your responsibility is to make a decision for the common good of New London.

1. To prepare for the council meeting tonight, lead the Council in reviewing the Proposed Redevelopment plan for New London. Facilitate discussion among council members in which all of you share your first impressions of the proposal, as well as any questions you have or changes you may like to see made.
2. Also, as a group, review the New London City Council Meeting Agenda which lists each group that is signed up to present to you today. Anticipate what you think each group's stance will be on this issue. Create at least two questions to ask each presenting group after their presentation. These questions may change based on what you hear in the presentations.
3. Once it is time for the City Council meeting to begin, YOU, as the Mayor, will call the meeting to order by greeting the council members and welcoming the citizens in attendance. You will then lead everyone in the Pledge of Allegiance. Finally, you will review the purpose of today's meeting by summarizing the redevelopment plan and the decision the Council must make. Then, following the meeting agenda that you received, you will call each group up to present. Each group will have up to 5 minutes to present their opinions to the Council.
4. After each presentation, you will open the floor for questions from council members of that presenting group. You and the Council may refer to the questions you previously created, or ask questions based on new information you heard. Remember, you need to gather all of the information you can in order to make an informed decision.
5. Once all groups have presented, as the Mayor, you will thank all citizens for their presentations and begin an open council session in which you and your fellow council members deliberate whether to approve or reject the New London Redevelopment Plan. If you decide to approve the redevelopment plan, then you must determine if you will do so exactly as proposed in the plan, or if you will make changes to the plan (for example, how would you compensate citizens who lose their property?) .

As city council, you may have different ideas regarding the proposed redevelopment plan. You must work through this using respectful debate, negotiation, and compromise, and attempt to come to a consensus.

**City Council Instructions**  
**Council Member**

**Instructions:**

You and your fellow council members are hearing from various groups of community members to determine whether or not to approve or reject the New London Redevelopment Plan. If you continue with the plan as proposed, you will be allowing the city to take a number of residential homes through eminent domain. If you choose not to proceed with the plan, the Pfizer Corporation may take their proposed complex to an area that will be more willing to provide better accommodations for its employees. Today, as you listen to citizen opinions, your responsibility is to make a decision for the common good of New London.

1. Review the Proposed Redevelopment plan for New London. Based on your views as described above, discuss your first impressions of the proposal with your fellow council members, as well as any changes you may like to see made.
2. Also, as a group, review the New London City Council Meeting Agenda which lists each group that is signed up to present to you today. Infer what you think each group's stance will be on this issue. Create at least two questions to ask each presenting group after their presentation. These questions may change based on what you hear in the presentations.
3. Once it is time for the City Council meeting to begin the Mayor will call the meeting to order. Each group will have up to 5 minutes to present their opinions to the Council.
4. After each presentation, you will have the opportunity to ask questions of the presenting group. You and your fellow council members may refer to the questions you previously created, or ask questions based on new information you heard. Remember, you need to gather all of the information you can in order to make an informed decision.
5. Once all groups have presented, the Mayor will thank all presenters for their presentations and begin an open council session in which you and your fellow members deliberate whether to approve or reject the New London Redevelopment Plan. If you decide to approve the redevelopment plan, then you must determine if you will do so exactly as proposed in the plan, or if you will make changes to the plan (for example, how would you compensate citizens who lose their property?) As City Council, you may have different ideas regarding the proposed redevelopment plan.

You must work through this using respectful debate, negotiation, and compromise, and attempt to come to a consensus.

## Stakeholder Instructions

### The Coalition to Save Fort Trumbull

Your group represents Susette Kelo and other residents of the Fort Trumbull area. Your goal is to convince City Council to **REJECT the redevelopment plan**. Many of you have lived in this area your whole lives and you are determined to do whatever it takes to defeat this plan and save your homes!

First and foremost, your group feels approving this redevelopment plan would be a violation of your Constitutional rights, particularly your Fifth Amendment right. You're sure it can't be legal to take someone's home for private development. This isn't an issue of taking your property for "public use" – public use would be building a school or a bridge. No, this is an issue of taking your property for PRIVATE PROFIT. You are American citizens who will be kicked out of your homes if this plan is approved, thus you feel this exercise of eminent domain is un-American and an unfair seizure of your personal property. Surely, this type of thievery and misuse of power can't occur in this country!

Your group has also been working with the Institute for Justice, who believes this is a social justice issue and a violation of Fort Trumbull's residents' liberties. While Fort Trumbull may not be a fancy neighborhood, there are many working class families who make a good life here and safely raise their families. Thus, you feel that your neighborhood is being targeted since many of the residents of Fort Trumbull do not have the financial resources to fight this in the courts, not to mention the fact that many residents are elderly and lack the ability to fight this battle. Further, it is clear to you that big, fancy companies like Pfizer and the New London Development Corporation just want to destroy these affordable family homes to build fancy condos and luxury hotels. This is an example of the rich in American attempting to get richer, and in this case they will be stealing property from working class citizens to do so! As the Institute for Justice has told you all, removing you from your home is as serious as putting you in prison, and there is no reason to do either!

1. Work together to develop a 3 minute presentation to City Council. Your presentation should:
  - a...Begin with an introduction and overview of your stance regarding the proposed redevelopment plan. Using the information above as a guideline of your group's views, *expand* this information into an argument in which you **clearly state what you expect the council members to do regarding the proposed redevelopment plan and why**.
  - b...Answer the following questions in your presentation...
    - Why do you want council members to reject the redevelopment plan?
    - How will the passing of the redevelopment plan negatively impact the city of New London?
    - In what ways will the redevelopment plan be ineffective? In what ways is the redevelopment plan unjust?
    - Why should council members vote according to your views over those opposing you?
  - c...Your statement must include at least one reference to the United States Constitution.
  - d...End with a convincing conclusion and group created slogan that will make the council remember your presentation
2. As you develop your presentation, consider what the other citizen presenters might say in their presentations. Be prepared to argue why voting in accordance with your views will have more of a positive impact on New London than what those opposing you are requesting.
3. Anticipate what questions council members might have of you so that you are prepared to answer.
4. Select 1-2 group members to present your stance to City Council members. The rest of the group will be responsible for assisting in answering questions the City Council will ask you after your presentation is finished. Remember, your goal is to get the City Council to **REJECT** the proposed redevelopment plan. Good luck!!

## Stakeholder Instructions

### New London Development Corporation

Your group represents the New London Development Corporation, who is responsible for creating the redevelopment plan being debated today. You firmly believe that the redevelopment plan is the best opportunity the city has seen in years and your goal is to convince the City Council to **APPROVE the redevelopment plan**.

You believe that this redevelopment plan is an ideal way to improve New London's economy, not to mention the quality of life for New London residents (especially the citizens of Fort Trumbull). First, the redevelopment plan will increase the city's tax base. Currently, 56% of land in New London is non-taxable, meaning the local government is not getting any revenue from those properties. Since property tax is the prime method for a city's revenue for important services such as schools, streets, firemen, police, etc., New London is suffering financially. Approving this redevelopment plan would greatly increase the city's revenue in the property taxes Pfizer would pay alone (not to mention all the other businesses that will come to the area). Who can argue that police and teachers don't need better funding?

Currently the Fort Trumbull area is a "rough and tough" area that is in desperate need of clean-up. Your plan will turn this "eye-sore" of an area into a beautiful business and tourist destination. Your plan not only involves Pfizer building its Global Development offices here, but also involves amazing public spaces for all citizens to use, a luxury hotel and condos, refurbishing the actual fort located in Fort Trumbull and turning it into a state historic park, and much more. If this plan is approved, more businesses, tourists, and locals will pour into the area and enjoy it.

While you understand the frustration some residents may feel in losing their homes, they really need to view this as an opportunity. They will be paid fairly for the value of their homes and can find a nicer place to live than the run-down area they currently reside in. Also, their city will prosper based on their sacrifice. As much as you sympathize with the Fort Trumbull residents, you think they must be moved for the good of the city.

1. Work together to develop a 3 minute presentation to City Council. Your presentation should:
  - a...Begin with an introduction and overview of your stance regarding the proposed redevelopment plan. Using the information above as a guideline of your group's views, *expand* this information into an argument in which you clearly state what you expect the council members to do regarding the proposed redevelopment plan.
  - b...Answer the following questions in your presentation...
    - Why do you want council members to approve the redevelopment plan?
    - How will the passing of the redevelopment plan positively impact the city of New London?
    - In what ways will the redevelopment plan be effective? What opportunities does the redevelopment plan offer the city of New London and its residents?
    - Why should council members vote according to your views over those opposing you?
  - c...Your statement must include at least one reference to the United States Constitution.
  - d...End with a convincing conclusion and group created slogan that will make the council remember your presentation
2. As you develop your presentation, consider what the other citizen presenters might say in their presentations. Be prepared to argue why voting in accordance with your views will have more of a positive impact on New London than what those opposing you are requesting.
3. Anticipate what questions council members might have of you so that you are prepared to answer.

4. Select 1-2 group members to present your stance to City Council members. The rest of the group will be responsible for assisting in answering questions the City Council will ask you after your presentation is finished. Remember, your goal is to get the City Council to **APPROVE** the proposed redevelopment plan. Good luck!!



## Stakeholder Instructions

### Fort Trumbull Citizens for Change

Your group represents a group of citizens living in Fort Trumbull who hope to convince city council to **APPROVE the redevelopment plan**. Unlike the members of the Coalition to Save Fort Trumbull, you believe this is a sensible opportunity for the citizens of Fort Trumbull to get a fresh start elsewhere.

Fort Trumbull, the area in which you live, is currently bordered by a junkyard, an abandoned Amtrak railroad yard, an oil tank field, and many dilapidating homes. Not only is the scenery hideous, but the place reeks from the smell of the foul water treatment plant down the road, which will finally be renovated with the redevelopment plan. Few people are interested in purchasing homes that are for sale in the area. The redevelopment plan offers you as homeowners the chance to be paid a fair price for your property and start fresh elsewhere. Rather than spend time fighting the inevitable, your group feels Fort Trumbull citizens should look at this as an opportunity and spend their time finding a new home elsewhere in the city with the money that will be provided in a “buy-out” to each resident.

1. Work together to develop a 3-minute presentation to City Council. Your presentation should:

a...Begin with an introduction and overview of your stance regarding the proposed redevelopment plan. Using the information above as a guideline of your group’s views, *expand* this information into an argument in which you clearly state what you expect the council members to do regarding the proposed redevelopment plan.

b...Answer the following questions in your presentation...

- Why do you want council members to approve the redevelopment plan? What about this plan makes you willing to move out of your home and sell it to the city?
- How will the passing of the redevelopment plan positively impact the city of New London?
- In what ways will the redevelopment plan be effective? What opportunities does the redevelopment plan offer the city of New London and its residents?
- Why should council members vote according to your views over those opposing you?

c...Your statement must include at least one reference to the United States Constitution.

d...End with a convincing conclusion and group created slogan that will make the council remember your presentation

2. As you develop your presentation, consider what the other citizen presenters might say in their presentations. Be prepared to argue why voting in accordance with your views will have more of a positive impact on New London than what those opposing you are requesting.

3. Anticipate what questions council members might have of you so that you are prepared to answer.

4. Select 1-2 group members to present your stance to City Council members. The rest of the group will be responsible for assisting in answering questions the City Council will ask you after your presentation is finished. Remember, your goal is to get the City Council to **APPROVE** the proposed redevelopment plan. Good luck!!

## Stakeholder Instructions

### Pfizer Corporation

Pfizer is the world's largest research-based biomedical and pharmaceutical company, with corporate headquarters that are located in New York and major research and development locations in the United States and England. You are representing the interests of Pfizer at the city council meeting today and your goal is to convince the City Council to **APPROVE the redevelopment plan**.

There is no question that your corporation's presence in this community will do wonders for it. First of all, Pfizer will bring many new jobs when it comes. In a town where the unemployment rate has doubled, you are shocked everyone isn't welcoming this opportunity with open arms. In the 1990s, New London was hit hard when the navy base closed, taking 1,800 jobs with it. Pfizer, and the companies that will follow once the area becomes a "hot-spot", will bring that many jobs back and more.

Further, New London's population has declined since the 1990s; people are leaving the area. Your proposal will not only encourage residents to stay, but also bring in many tourists. The plan includes the addition of a museum, walkways, bike paths, and more, all of which will make the space more usable and friendly to all New London residents. There is a beautiful view of the water from Fort Trumbull that is currently being wasted, as most residents can't access it and there is nothing to do down there.

Frankly, New London is lucky to have Pfizer considering it as a location, since many cities are constantly asking for companies such as yours to open an office within their city limits. New London had better realize what a great opportunity this is quickly; you have many options of places where you would be welcomed by all.

1. Work together to develop a 3 minute presentation to City Council. Your presentation should:

a...Begin with an introduction and overview of your stance regarding the proposed redevelopment plan. Using the information above as a guideline of your group's views, *expand* this information into an argument in which you clearly state what you expect the council members to do regarding the proposed redevelopment plan.

b...Answer the following questions in your presentation...

- Why do you want council members to approve the redevelopment plan?
- How will the passing of the redevelopment plan positively impact the city of New London?
- In what ways will the redevelopment plan be effective? What opportunities does the redevelopment plan offer the city of New London and its residents?
- Why should council members vote according to your views over those opposing you?

c...Your statement must include at least one reference to the United States Constitution.

d...End with a convincing conclusion and group created slogan that will make the council remember your presentation

2. As you develop your presentation, consider what the other citizen presenters might say in their presentations. Be prepared to argue why voting in accordance with your views will have more of a positive impact on New London than what those opposing you are requesting.

3. Anticipate what questions council members might have of you so that you are prepared to answer.

4. Select 1-2 group members to present your stance to City Council members. The rest of the group will be responsible for assisting in answering questions the City Council will ask you after your presentation is finished. Remember, your goal is to get the City Council to **APPROVE** the proposed redevelopment plan. Good luck!!

## Stakeholder Instructions

### New London Landmarks

Your group represents the New London Landmarks, a society dedicated to preserving the history of New London. Your goal is to convince City Council to **REJECT the redevelopment plan**. The Fort Trumbull neighborhood is an important part of New London's history, an important part of history that will be lost forever if the redevelopment plan is approved. The homes in Fort Trumbull have unique architectural details and many were built by Italian and Irish immigrants in the early 1900s. The masonry and brick work alone in these homes is amazing and can't be found elsewhere in the city. If innocent citizens are pushed out of their homes and these landmarks are bulldozed for new development, history and character will be lost and money will be wasted.

So many strip-malls and huge office parks exist all across the United States; why then would a place as unique as Fort Trumbull be torn down, only to be replaced by more of the same mundane architecture that exists everywhere else? Fort Trumbull is an area that can set New London apart from other areas. While it's true Fort Trumbull could use some cleaning up and refurbishing, bulldozing the whole area is wasteful and makes no sense. There have been other times in the past when New London has fallen for scams like this, and gone along with plans promising huge improvements after redevelopment. In the end, nothing worked out. That is what you group feels will happen again. So many irreplaceable historical homes will be destroyed and in the end the redevelopment plan will most likely fall through anyway.

Your group doesn't care if Pfizer comes here or not; in fact, if it is bringing more "office park architecture," you'd rather they go elsewhere.

1. Work together to develop a 3 minute presentation to City Council. Your presentation should:

a...Begin with an introduction and overview of your stance regarding the proposed redevelopment plan. Using the information above as a guideline of your group's views, *expand* this information into an argument in which you clearly state what you expect the council members to do regarding the proposed redevelopment plan.

b...Answer the following questions in your presentation...

- Why do you want council members to reject the redevelopment plan?
- How will the passing of the redevelopment plan negatively impact the city of New London?
- In what ways will the redevelopment plan be ineffective? In what ways is the redevelopment plan unjust?
- Why should council members vote according to your views over those opposing you?

c...Your statement must include at least one reference to the United States Constitution.

d...End with a convincing conclusion and group created slogan that will make the council remember your presentation

2. As you develop your presentation, consider what the other citizen presenters might say in their presentations. Be prepared to argue why voting in accordance with your views will have more of a positive impact on New London than what those opposing you are requesting.

3. Anticipate what questions council members might have of you so that you are prepared to answer.

4. Select 1-2 group members to present your stance to City Council members. The rest of the group will be responsible for assisting in answering questions the City Council will ask you after your presentation is finished. Remember, your goal is to get the City Council to **REJECT** the proposed redevelopment plan. Good luck!!

**New London City Council  
Meeting Agenda**

I. Welcome

II. Pledge of Allegiance

III. Public Hearing on Proposed Redevelopment Plan

**- PRESENTING GROUPS -**

- New London Development Corporation
- The Coalition to Save Fort Trumbull
- Pfizer Corporation
- New London Landmarks
- Fort Trumbull Citizens for Change

IV. Open deliberation on Proposed Redevelopment Plan

**Abridged Supreme Court Opinion-  
Kelo v. City of New London, 545 U.S. 469 (2005)**

**OPINION: Justice Stevens delivered the opinion of the Court.**

In 2000, the city of New London approved a development plan that, in the words of the Supreme Court of Connecticut, was "projected to create in excess of 1,000 jobs, to increase tax and other revenues, and to revitalize an economically distressed city, including its downtown and waterfront areas." In assembling the land needed for this project, the city's development agent has purchased property from willing sellers and proposes to use the power of eminent domain to acquire the remainder of the property from unwilling owners in exchange for just compensation. The question presented is whether the city's proposed disposition of this property qualifies as a "public use" within the meaning of the Takings Clause of the Fifth Amendment to the Constitution....

In all, the nine petitioners own 15 properties in Fort Trumbull... There is no allegation that any of these properties is blighted or otherwise in poor condition; rather, they were condemned only because they happen to be located in the development area. In December 2000, petitioners brought this action in the New London Superior Court. They claimed...that the taking of their properties would violate the "public use" restriction in the Fifth Amendment. ...[T]he Superior Court granted a permanent restraining order prohibiting the taking of the properties located in parcel 4A (park or marina support). It, however, denied petitioners relief as to the properties located in parcel 3 (office space).

After the Superior Court ruled, both sides took appeals to the Supreme Court of Connecticut. That court held, over a dissent, that all of the City's proposed takings were valid....

We granted certiorari to determine whether a city's decision to take property for the purpose of economic development satisfies the "public use" requirement of the Fifth Amendment....

Without exception, our cases have defined that concept broadly, reflecting our longstanding policy of deference to legislative judgments in this field....

Viewed as a whole, our jurisprudence has recognized that the needs of society have varied between different parts of the Nation, just as they have evolved over time in response to changed circumstances. ...For more than a century, our public use jurisprudence has wisely eschewed rigid formulas and intrusive scrutiny in favor of affording legislatures broad latitude in determining what public needs justify the use of the takings power.

Those who govern the City were not confronted with the need to remove blight in the Fort Trumbull area, but their determination that the area was sufficiently distressed to justify a program of economic rejuvenation is entitled to our deference. The City has carefully formulated an economic development plan that it believes will provide appreciable benefits to the community, including--but by no means limited to--new jobs and increased tax revenue.... Given the comprehensive character of the plan, the thorough deliberation that preceded its adoption, and the limited scope of our review, it is appropriate for us...to resolve the challenges of the individual owners, not on a piecemeal basis, but rather in light of the entire plan. Because that plan unquestionably serves a public purpose, the takings challenged here satisfy the public use requirement of the Fifth Amendment.

To avoid this result, petitioners urge us to adopt a new bright-line rule that economic development does not qualify as a public use. ...[N]either precedent nor logic supports petitioners' proposal. Promoting economic development is a traditional and long-accepted function of government. There is, moreover, no principled way of distinguishing economic development from the other public purposes that we have recognized.

...Petitioners contend that using eminent domain for economic development impermissibly blurs the boundary between public and private takings. Quite simply, the government's pursuit of a public purpose will often benefit individual private parties.

It is further argued that without a bright-line rule nothing would stop a city from transferring citizen A's property to citizen B for the sole reason that citizen B will put the property to a more productive use and thus pay more taxes. ...[T]he hypothetical cases posited by petitioners can be confronted if and when they arise....

Just as we decline to second-guess the City's considered judgments about the efficacy of its development plan, we also decline to second-guess the City's determinations as to what lands it needs to acquire in order to effectuate the project.

...[N]othing in our opinion precludes any State from placing further restrictions on its exercise of the takings power. ...[T]he necessity and wisdom of using eminent domain to promote economic development are certainly matters of legitimate public debate. This Court's authority, however, extends only to determining whether the City's proposed condemnations are for a "public use" within the meaning of the Fifth Amendment to the Federal Constitution. Because over a century of our case law interpreting that provision dictates an affirmative answer to that question, we may not grant petitioners the relief that they seek. The judgment of the Supreme Court of Connecticut is affirmed. It is so ordered.

**CONCUR: Justice Kennedy, concurring.**

I join the opinion for the Court and add these further observations.

...A court confronted with a plausible accusation of impermissible favoritism to private parties should treat the objection as a serious one and review the record to see if it has merit, though with the presumption that the government's actions were reasonable and intended to serve a public purpose....

My agreement with the Court that a presumption of invalidity is not warranted for economic development takings in general, or for the particular takings at issue in this case, does not foreclose the possibility that a more stringent standard of review than that announced in *Berman* and *Midkiff* might be appropriate for a more narrowly drawn category of takings. There may be private transfers in which the risk of undetected impermissible favoritism of private parties is so acute that a presumption (rebuttable or otherwise) of invalidity is warranted under the Public Use Clause. This demanding level of scrutiny, however, is not required simply because the purpose of the taking is economic development.

**DISSENT: Justice O'Connor, with whom the Chief Justice, Justice Scalia, and Justice Thomas join, dissenting.**

Today the Court abandons this long-held, basic limitation on government power. Under the banner of economic development, all private property is now vulnerable to being taken and transferred to another private owner, so long as it might be upgraded--i.e., given to an owner who will use it in a way that the legislature deems more beneficial to the public--in the process.

...[W]e have read the Fifth Amendment's language to impose two distinct conditions on the exercise of eminent domain: "the Taking must be for a 'public use' and 'just compensation' must be paid to the owner...." Our cases have generally identified three categories of takings that comply with the public use requirement.... First, the sovereign may transfer private property to public ownership--such as for a road, a hospital, or a military base. Second, the sovereign may transfer private property to private parties, often common carriers, who make the property available for the public's use--such as with a railroad, a public utility, or a stadium. ...[W]e have allowed that, in certain circumstances...takings that serve a public purpose also satisfy the Constitution even if the property is destined for subsequent private use....

In moving away from our decisions sanctioning the condemnation of harmful property use, the Court today significantly expands the meaning of public use. It holds that the sovereign may take private property currently put to ordinary private use, and give it over for new, ordinary private use, so long as the new use is predicted to generate some secondary benefit for the public--such as increased tax revenue, more jobs, maybe even esthetic pleasure. But nearly any lawful use of real private property can be said to generate some incidental benefit to the public. Thus, if predicted (or even guaranteed) positive side effects are enough to render transfer from one private party to another constitutional, then the words "for public use" do not realistically exclude any takings, and thus do not exert any constraint on the eminent domain power....

If legislative prognostications about the secondary public benefits of a new use can legitimate a taking, there is nothing in the Court's rule or in Justice Kennedy's gloss on that rule to prohibit property transfers generated

with less care, that are less comprehensive, that happen to result from less elaborate process, whose only projected advantage is the incidence of higher taxes, or that hope to transform an already prosperous city into an even more prosperous one....

Any property may now be taken for the benefit of another private party, but the fallout from this decision will not be random. The beneficiaries are likely to be those citizens with disproportionate influence and power in the political process, including large corporations and development firms. As for the victims, the government now has license to transfer property from those with fewer resources to those with more. The Founders cannot have intended this perverse result.

## **“Ruling Sets Off Tug of War Over Private Property”**

***New York Times***

**July 30, 2005**

**By TIMOTHY EGAN**

SANTA CRUZ, Calif. - More than a month after the Supreme Court ruled that governments could take one person's property and give it to another in the name of public interest, the decision has set off a storm of legislative action and protest, as states have moved to protect homes and businesses from the expanded reach of eminent domain.

In California and Texas, legislators have proposed constitutional amendments, while at least a dozen other states and some cities are floating similar changes designed to rein in the power to take property.

But at the same time, the ruling has emboldened some cities to take property for development plans on private land. Here in Santa Cruz, for example, city officials started legal action this month to seize a parcel of family-owned land that holds a restaurant with a high Zagat rating, two other businesses and a conspicuous hole in the ground and force a sale to a developer who plans to build 54 condominiums.

Far from clarifying government's ability to take private property, the 5-to-4 Supreme Court decision has set up a summer of scrutiny over a power that has been regularly used but little-discussed for decades.

"The intense reaction - this backlash - has caught a lot of people off guard," said Larry Morandi, who tracks land use developments for the National Conference of State Legislatures.

In Connecticut, where the court case originated, Gov. M. Jodi Rell, a Republican, has likened the reaction to the Boston Tea Party and called for a moratorium on land takings until the legislature can revisit the law. California's proposal would prohibit the use of eminent domain, a process in which governments force a sale of someone's property, in cases like Santa Cruz's.

"This decision opens a new era when the rich and powerful can use government to seize the property of ordinary citizens for private gain," said State Senator Tom McClintock, a Republican who proposed the amendment.

In Congress, liberals like Representative Maxine Waters, Democrat of California, have joined conservatives like Representative Tom DeLay of Texas, the House majority leader, in criticizing the ruling. The House voted 365 to 33 to pass a resolution condemning the decision, and proposals in both the House and the Senate would prevent the federal government from using eminent domain for private development, as well as local governments using federal money on such projects.

The Fifth Amendment allows the taking of land for "public use" with "just compensation," and governments have long used the practice to build roads and schools and to allow utilities to run service lines. In its June 23 ruling regarding efforts by the City of New London, Conn., to condemn homes in an old part of town to make way for a private development, the Supreme Court said public use could mean something that brings a public benefit - like jobs or increased tax revenue.

But at the same time, the court invited states to tailor their own laws. While only one state, Delaware, has changed its law, most states are likely to have a proposed change by next year, Mr. Morandi said.

"The initial outcry after the court case was: Nobody's house is safe, we've got to do something now," he said. "But as more states take a look at this they will respond in some form, but they won't want to take away a valuable tool."



In Texas, Gov. Rick Perry added the issue to a special legislative session initially called for education. Both houses passed bills limiting eminent domain with some exceptions, including one allowing the City of Arlington to condemn homes for a new Dallas Cowboys football stadium, a project already under way. The two versions of the bills were not reconciled before the session ended.

But some cities view the ruling as blessing their redevelopment plans; Arlington filed condemnation lawsuits against some holdout property owners this month. Officials in Sunset Hills, Mo., outside St. Louis, voted to condemn a cluster of homes to make way for a shopping center, despite the pleas of some elderly homeowners who said they had nowhere else to go and no desire to move. Officials in Oakland, Calif., evicted a tire shop and an auto repair shop to make room for a development that is part of Mayor Jerry Brown's plan to bring 10,000 residents to the central part of the city.

In Santa Cruz, the plans pit one family against the city's long effort to redevelop a downtown hit by the 1989 earthquake. With the Supreme Court's ruling, city officials here said they felt free to seize a 20,000-square-foot lot they considered a blight.

To the city, the lot owned by the Lau family is a drag on other businesses, because the hole, left by the earthquake, has never been redeveloped. To the family, the seizure is legalized theft and shows how the court decision can be used to take anyone's property under the broad rubric of public use.

"My family has owned this land for 36 years," said Eric Lau, who laid bricks to shore up the building that would become his thriving restaurant, which is adjacent to the hole. "And now they're trying to erase us from this place, to take it and say we don't have any choice."

The ruling has struck a chord; in a Wall Street Journal/NBC News poll this month, the legal issue that Americans said most concerned them was "private property rights," ahead of parental notification for minors' abortions or the right-to-die debate. Property rights groups have united with more liberal organizations in arguing that taking property for economic use usually favors the rich over the poor.

"Typically, you have these corporate lobbyists who go down to a city council and say, 'Take this person's property and we'll build you a shopping center,' " said Timothy Sandefur, a lawyer with the Pacific Legal Foundation, a libertarian-leaning legal group that helped draft the proposed California amendment. Opponents of the Supreme Court decision also point to San Diego, where Ahmed Mesdaq lost his prosperous cigar and coffee shop in the trendy Gaslamp Quarter to a hotel project, which the city said would bring more tax revenue.

Many city officials say eminent domain is crucial for creating jobs, expanding tax bases and keeping their communities economically viable.

"Redevelopment is sometimes the only tool a community has to jump-start revitalization of downtrodden, blighted communities," officials at the California League of Cities wrote in a response to the proposed amendment.

Mayor Brown of Oakland said it was inevitable that some small businesses would have to be relocated, and he urged caution in any efforts to pass laws. "I understand the horror of urban renewal," he said. "But you don't want to take away a tool that a city has to reform itself. If you did, Oakland would suffer greatly." During the 1970's, the Lau property, with its bookstore and cafe in the pre-Starbucks age, was a central hangout in funky Santa Cruz, neighbors say. Eric Lau watched his father's bookstore come to life and then die in the Loma Prieta earthquake, which destroyed the building.

The family's restaurant, Oswald, would not be considered blight by many standards. There is ivy on the outside walls, art on the inside, and the tables are covered with fresh-pressed linen. The restaurant is packed on most

nights, neighbors say. And it has consistently been voted one of the best places to dine in Santa Cruz, a beach town of 54,000 people south of San Jose, known for its university and the carpet of redwoods on its fog-shrouded hills.

Ron Lau, who is 69, has long tried to build something on the undeveloped part of the property - the hole in the ground. The problem, city officials say, is that Mr. Lau has proposed hard-to-build, idealistic plans, involving alternative energy sources and unusual designs, that have never gotten off the ground, angering some nearby property owners.

"We do not use eminent domain frivolously," said Ceil Cirillo, executive director of the Santa Cruz Redevelopment Agency. "I feel we have been very fair and very patient."

Taking the Lau property would serve the public good, Ms. Cirillo said, "because there is a hole in the center of our retail district."

Eric Lau and his sister Lani say the city is taking their property simply because their father took so much time to try to build something unusual. "My dad was hellbent on getting his dream project built, nothing less, and that has been his biggest weakness," Eric Lau said.

The city agency has offered the family \$1.6 million for the property, and the Laus plan to fight it. It is unclear whether the amendment would protect the Laus, but they hope to hang on to the property long enough to find out. A vote on the amendment would come no sooner than next June, legislative leaders say. Meanwhile, the Laus say they are willing to modify their plans and build something close to what the city has agreed to with a developer.

But city officials say that they have run out of patience and that it is too late for the Laus to come up with new designs. They have an exclusive agreement, Ms. Cirillo said, with a developer, Bolton Hill, to take over the property and build on it.

"The project is moving forward," Ms. Cirillo said. "The Supreme Court gave us reassurance of our ability to proceed."

As for Laus and their restaurant, Ms. Cirillo said there might still be a place for them in the new development - after they sell out. "Ideally, we would like to see them relocated in some way to the project," she said.

Name: \_\_\_\_\_

**North Carolina General Statutes § 40A-3(a).**

- (Subsection 1) "Corporations, bodies politic or persons have the power of eminent domain for the construction of railroads, power generating facilities, substations, switching stations, microwave towers, roads, alleys, access railroads, turnpikes, street railroads, plank roads, tramroads, canals, telegraphs, telephones, electric power lines, electric lights, public water supplies, public sewerage systems, flumes, bridges, and pipelines or mains originating in North Carolina for the transportation of petroleum products, coal, gas, limestone or minerals."

**Student Summary:**

- (Subsection 2) "School committees or boards of trustees or of directors of any corporation holding title to real estate upon which any private educational institution is situated, have the power of eminent domain in order to obtain a pure and adequate water supply for such institution."

**Student Summary:**

- (Subsection 3) "Franchised motor vehicle carriers or union bus station companies organized by authority of the Utilities Commission, have the power of eminent domain for the purpose of constructing and operating union bus stations."

**Student Summary:**

- (Subsection 4) "Any railroad company has the power of eminent domain for the purposes of: constructing union depots; maintaining, operating, improving or straightening lines or of altering its location; constructing double tracks; constructing and maintaining new yards and terminal facilities or enlarging its yard or terminal facilities; connecting two of its lines already in operation not more than six miles apart; or constructing an industrial siding."

**Student Summary:**

**After the homes are gone**  
*San Francisco Chronicle*, November 28, 2009

In its infamous *Kelo* decision in 2005, the U.S. Supreme Court ruled 5-4 that a New London, Conn., redevelopment agency could seize people's private homes by eminent domain not only for public works but also for corporate development.

The well-laid plans of redevelopers, however, did not pan out. The land where Susette Kelo's little pink house once stood remains undeveloped. The proposed hotel-retail-condo "urban village" has not been built. And earlier this month, Pfizer Inc. announced that it is closing the \$350 million research center in New London that was the anchor for the New London redevelopment plan, and will be relocating some 1,500 jobs.

"They stole our home for economic development," ousted homeowner Michael Cristofaro told the *New York Times*. "It was all for Pfizer, and now they get up and walk away."

John Brooks, executive director the New London Development Center, told the Associated Press: "Development's going to happen once the economy rebounds."

But attorney Dana Berliner of the Institute for Justice, who represented Kelo and other homeowners, noted, "There was evidence back when we had the trial that nothing would be built on the land that was taken, and the courts just didn't want to look at that." The courts were too rapt at the notion of shiny and tax-rich waterfront development to care about the impact on largely blue-collar taxpayers who so desperately wanted to hold on to their ocean-view homes.

How can the government take citizens' homes so that private corporations can take the land for their own profit?

Explaining the decision to the Clark County Bar Association in 2005, Justice John Paul Stevens asserted that the court "focused on the purpose of the entire project, rather than its impact on the individuals who happen to own property in the targeted area."

There's a problem with painting the public good with such a broad brush. As Justice Sandra Day O'Connor wrote in her dissenting opinion: "The specter of condemnation hangs over all property. Nothing is to prevent the state from replacing any Motel 6 with a Ritz-Carlton, any home with a shopping mall, or any farm with a factory."

When it goes wrong, to paraphrase that Joni Mitchell song, they take paradise and put up an empty lot.

**Source:** <http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2009/11/27/ED1D1ARCP5.DTL>

After reading the editorial, answer the following questions:

1. What happened to New London's redevelopment plan? Why do you think this happened?
2. The city of New London and state of Connecticut spent \$78 million dollars to bulldoze the Fort Trumbull area (source Wall Street Journal), should Pfizer be responsible for covering some of the costs? Why or why not?
3. Describe the point of view of the editorial writers, do you think they agree or disagree with the *Kelo* decision?
4. After reading this editorial, has your opinion of the *Kelo* decision changed? Why or why not?