

# UNINTENDED CONSEQUENCES

## UNINTENDED CONSEQUENCES: EMINENT DOMAIN



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Video Page



# *Unintended Consequences: Eminent Domain* **Teacher's Guide**

*This Teacher's Guide includes the following:*

- **Suggested Lesson Plan**
- **Preview Questions and Key Terms**
- **Viewing Guide**
- **Comprehension Questions**
- **Discussion Questions**
- **Quiz**
- **Answer Key**
- **Enrichment Activities**

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*These materials may be used in a variety of ways. For maximum benefit, we suggest the following lesson plan:*

## **Suggested Lesson Plan**

- As a class, discuss the Preview Questions and Key Terms.
- Distribute copies of the Viewing Guide for students to use as a note-taking tool during the video.
- Play the video, pausing if needed to facilitate understanding and note-taking.
- Review and discuss answers to the Viewing Guide using the Answer Key as a guide.
- Use the Comprehension and Discussion Questions to spark class discussion, or assign these questions as homework.
- Replay the video as preparation for the Quiz.
- Administer and grade the Quiz using the Answer Key as a guide.
- Optional: Assign selected Enrichment Activities as homework.

# ***Unintended Consequences: Eminent Domain***

## **Preview Questions and Viewing Guide**

*Introduce the lesson as follows:*

Let's break it down and look at each word in the title separately—

What does “domain” mean?

What does “eminent” mean?

What does “unintended” mean?

Share your experiences with the term “consequences.” Were they intended or unintended?

*Show this quote on the board:*

“...nor shall private property be taken for public use without just compensation.”

--Eminent Domain clause of the Fifth Amendment to the United States Constitution

*Ask students:*

What do you think will be explained in the video?

*Share the following terms and definitions with the class:*

Eminent domain: the power of a government to take private property for public use, usually with compensation paid to the owner

Property rights: the rights of ownership -- the rights to use, control, dispose of and obtain the benefits from a good or service

Supreme Court: the highest federal court, consisting of nine justices appointed by the President with the advice and consent of Congress, having the authority to invalidate legislation or executive actions which, in the Court's judgment, conflict with the Constitution

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

Date: \_\_\_\_\_

## ***Unintended Consequences: Eminent Domain*** **Viewing Guide**

1. There's something in the Constitution called "eminent domain" that gives government the power to take your property, even if you don't want to \_\_\_\_\_.
2. The Founding Fathers...wrote the Constitution to protect individual rights from government \_\_\_\_\_.
3. The 5<sup>th</sup> Amendment to the U.S. Constitution states that governments may take private property, but...the property must be put to a \_\_\_\_\_ and the property owners must be provided \_\_\_\_\_.
4. Local governments have used the power of \_\_\_\_\_ to take private property...for public uses like schools, hospitals, and roads.
5. Since 1954 governments have also used eminent domain to transfer property from one private owner to another \_\_\_\_\_ in the name of economic development.
6. In Arcadia, California, the city wants to use eminent domain to tear down Manny Romero's \_\_\_\_\_ so that a Mercedes dealership can expand its parking lot.
7. In Riviera Beach, FL, the mayor and city officials are leading efforts to redevelop 800 acres of \_\_\_\_\_ property where Princess Wells and 5000 other people live.
8. The Susette Kelo case made it all the way to the \_\_\_\_\_ in 2005.
9. The *Kelo* case sparked a huge debate about the importance of \_\_\_\_\_.
10. Fifteen New London property owners did not want to sell, so the city used eminent domain to \_\_\_\_\_ their properties.
11. In a \_\_\_\_\_ decision the Supreme Court upheld New London's right to use eminent domain.
12. Four of the nine judges said that if eminent domain can be used for any public purpose, then all property is at \_\_\_\_\_.
13. The \_\_\_\_\_ decision was a victory for city planners but many people believe the decision gave government too much power.
14. After the *Kelo* decision more than 30 states placed \_\_\_\_\_ on eminent domain use.

## ***Unintended Consequences: Eminent Domain*** **Comprehension Questions**

1. According to the film, why was the Constitution written?
2. What did the Founders believe about property rights?
3. What is eminent domain?
4. According to the Constitution, which two conditions must be met for the government to exercise eminent domain?
5. How has public use traditionally been defined? Give examples.
6. Since the Supreme Court ruled in favor of a Washington, D.C. urban renewal project in 1954, how has eminent domain been used in a dramatically different way?
7. Who is Bruce Broadwater? Why is he in favor of using eminent domain for redevelopment?
8. What are journalist Steven Greenhut's views about "just compensation"?
9. Why does the city of Arcadia, CA want to help a Mercedes dealer expand its parking lot?
10. What has been the most important and controversial eminent domain case in United States history? Who won? How did the Supreme Court rule in the case?
11. What was the impact of the Supreme Court's decision in the 2005 eminent domain case?
12. What has happened at the state level in response to the 2005 Supreme Court ruling?

# *Unintended Consequences: Eminent Domain*

## Discussion Questions

1. Since the terms “public use” and “just compensation” are not defined in the Constitution, how has their meaning been determined?
2. How did the 1954 Supreme Court ruling depart from the traditional interpretation of eminent domain? Is home ownership more secure or less secure under the new interpretation? Explain.
3. How are projects such as schools and roads fundamentally different from the economic development projects highlighted in the video? What is the essential difference?
4. Prior to 1954, how did developers acquire a desirable piece of property? Given the current interpretation of eminent domain, how else might developers acquire property? What is the impact of the new interpretation on property owners? On developers?
5. What does “economic development for the good of the community” mean if some people are hurt and some are helped by it? What is to prevent politicians from taking property in the name of economic development in order to enhance political contributions from large developers?
6. Why does journalist Steven Greenhut oppose taking property from one private owner and giving it to another private owner? Is he against improving bad neighborhoods? Explain.
7. In New London, CT, one hundred property owners agreed to sell to the developers, and only a few refused. Is it fair for a minority to be able to block a new development? Why/why not?
8. Why did the *Kelo* case spark a huge debate about the importance of property rights? What was the case about? Who won? What has been the impact of the Court’s decision upon the use of eminent domain to transfer private property from one owner to another private owner?
9. Why was *Kelo* a victory for city planners? Why do many people think the *Kelo* decision gave government too much power?
10. According to Justice John Paul Stevens, writing in the majority opinion in *Kelo*, “...that plan...serves a public purpose...” What public purpose did it serve? Is “public purpose” in this sense the same as “public use” as traditionally understood? Explain.
11. Who should make decisions about how property is used, the people who own the property, or the government? Explain.
12. According to Bruce Broadwater, “There are people who think that property has more rights than human beings.” What does he mean by this? Does the concept of property rights mean that property has rights? Is there a conflict between property rights and human rights?

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

Date: \_\_\_\_\_

## ***Unintended Consequences: Eminent Domain*** **Quiz**

**True or false? If false, correct the statement to make it true.**

1. The Constitution protects individual rights from government power.
2. The Founders did not consider property rights to be important.
3. Eminent domain gives government the power to take your property under certain conditions, even if you don't want to sell.
4. In 2005, the Supreme Court voted unanimously in favor of government using eminent domain for economic development.
5. Today, eminent domain is being used to force some private owners to turn over their property to other private owners.

**Answer in a few words.**

6. Which part of the Constitution spells out the exception/limitation on private property rights known as eminent domain?
7. According to the eminent domain clause of the Constitution, what two conditions must be met for government to exercise its power of eminent domain?
8. Give three examples from the video of the types of projects eminent domain was traditionally limited to until the 1950s.
9. What has been the most important and controversial eminent domain case in United States history?
10. Using eminent domain for economic development means government takes property from \_\_\_\_\_ and gives it to \_\_\_\_\_.

# *Unintended Consequences: Eminent Domain*

## **Answer Key**

### Viewing Guide

1. Sell
2. Power
3. Public use; just compensation
4. Eminent domain
5. Private owner
6. Diner
7. Waterfront
8. Supreme Court
9. Property rights
10. Seize
11. 5 to 4 split
12. Risk
13. *Kelo*
14. Limits

### Comprehension Questions

1. The Founders wrote the Constitution to protect individual rights from government power.
2. The Founders believed that property rights were among the most important individual rights.
3. Eminent domain is the right of governments to take private property for public use.
4. a) the property must be put to a public use, and b) the owners must be paid just compensation.
5. Schools, hospitals, roads, reservoir, police department
6. Eminent domain has been used to transfer property from one private owner to another.
7. The city councilman and former mayor of Garden Grove, CA, thinks eminent domain is useful for maintaining housing stock, keeping the community clean and vibrant.
8. Cities often shortchange the owners and they don't pay the legal fees.
9. It would increase tax revenues for the city.
10. *Kelo vs. New London, CT*; In a controversial 5-4 split decision the Supreme Court upheld New London's right to use eminent domain.
11. The use of eminent domain increased dramatically after *Kelo*. At the same time concerned citizens across the country began working to reform eminent domain laws.
12. After *Kelo*, more than 30 states placed limits on eminent domain use.



# ***Unintended Consequences: Eminent Domain***

## **Answer Key, page 2**

### Quiz

1. True
2. False (Remove the word *not*. The Founders considered property rights to be very important.)
3. True
4. False (Replace *unanimously* with *5 to 4* or *in a split decision*.)
5. True
6. The Fifth Amendment
7. 1) Must be for public use 2) Owners must be paid just compensation
8. Three of the following: 1) schools 2) roads 3) hospitals 4) reservoir 5) police department
9. *Kelo vs. New London, CT*
10. One private owner; another private owner

# *Unintended Consequences: Eminent Domain* **Enrichment Activities**

## **Debate**

Divide into groups and debate one of the propositions below. Students should provide evidence and reasoning to support their views.

1. The Founders made a mistake when they granted government the right of eminent domain.
2. Government should never intervene on behalf of private interests.
3. “There are people who think that property has more rights than human beings.”
4. If eminent domain can be used for any public purpose, then all property is at risk, especially property owned by poor people without political influence.

## **Essay**

Review the following excerpts from the majority and dissenting Supreme Court opinions in the *Kelo* case. If you were a member of the Supreme Court, which way would you have voted? Why? Explain your answer in a short essay. Be sure to include evidence and reasoning to support your answer.

“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...Because that plan unquestionably serves a public purpose, the takings challenged here satisfy the public use requirement of the Fifth Amendment.”

--Justice John Paul Stevens, majority opinion of the Supreme Court, *Kelo vs. New London, CT*

“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...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.”

--Justice Sandra Day O’Connor, dissenting opinion of the Supreme Court, *Kelo vs. New London, CT*

## **Research Report**

What is the law regarding eminent domain in your state? Has it recently changed? Are there any current cases pending? How has the media covered the issue?

# *Unintended Consequences: Eminent Domain*

## **Enrichment Activities, page 2**

### **Who chooses, who benefits, who pays, and what's fair?**

[These four questions can be a useful tool for evaluating any policy or system. Posing the questions is a great way to stimulate critical thinking.]

*Use the following questions as a springboard for class discussion, a small group exercise, or an individual writing assignment.*

When eminent domain is used to take property from one private owner and transfer it to another private owner—

Who chooses how the property will be used?  
Who pays for the use of the property?  
Who benefits from the use of the property?

When private property is protected against seizure by eminent domain—

Who chooses how the property will be used?  
Who pays for the use of the property?  
Who benefits from the use of the property?

(Pays should be interpreted broadly to include all possible costs/harm. Think about all of the possible individuals or groups who pay in each scenario, and who might benefit in each scenario.)

Which scenario is fairer? Why?

### **Additional Essay/Debate/Discussion Topics**

Select one of the quotations below and explain what it means, whether you agree or disagree, and why.

1. “This is America. This is a country with free enterprise. You have all the rights to own your property, your own home, your own business. You have the right to build your American dream.”
2. “The use of eminent domain is a delicate tool, but it is a tool and it helps keep a community clean; it helps keep a community vibrant. It’s a good tool and, definitely, I don’t think it should be taken away.”
3. “You don’t take stuff that doesn’t belong to you. And that’s the way I was raised. That’s the way I raised my children, and that’s the way most people think...These are our homes.”

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