

# CLWA#2

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Writing Assignment #1 Part 2

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Constitutional Issues

Thomas Edison State University

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#### <sup>4</sup> **Kelo v. City of New London (2005)**

In this case, <sup>3</sup>the plaintiff appealed to the Supreme Court following a decision by the supreme court of Connecticut in favor of the City of New London. The shareholders who included the main Appellant <sup>1</sup>Kelo sued the New City of London in the Connecticut courts citing that it <sup>1</sup>had not appropriately used its domain power (David, R. 1976). In relation to this, the <sup>1</sup>power of the eminent domain is however, limited by the Takings clause which states that not at any point shall a privately owned <sup>1</sup>property be taken for public use without any form of compensation, the Fifth Amendment and the Due process clause of the Fourteenth Amendment which in its essential is concerned with the administration of justice and so acting as a protective law from any form of arbitrary denial of life, liberty or property away from the sanction law. Moreover, the above clause limitation can be applied to the various <sup>1</sup>actions of the state and also the local governments. In this case, the Appellant cited that <sup>4</sup>economic development, the said purpose of acquiring the land and consequently transferring <sup>2</sup>of the land to the New London Development Corporation did not meet the minimum qualification as a public use consistent with the Fifth Amendment.

The Connecticut Supreme Court listened to the case and later on issued a ruling that was in favor of the city (Paul M. Hebert Law Center. 2008). As was held by the <sup>1</sup>state Supreme Court, the utilization of the eminent domain towards economic development did not in any way violate the clauses relating to public use of the state and consequently the federal laws.

The courts ruling went ahead to explain that if it is established by a legislative body that a given economic project shall lead to the creation of new jobs, subsequent increase in revenue collection in form of tax and other forms of revenue then that project is deemed to be serving a public purpose. The court also explained in its decision <sup>1</sup> that the state's delegation of its eminent domain power to a privately owned entity was consistent with the constitution as under the Connecticut constitution.

Kelo v. City of New London (2005) was unique in that, it <sup>1</sup> was the first main eminent domain proceeding upon the Supreme Court from the year 1984. In that period both states and various municipalities were extending their utilization of eminent domain in most instances to include economic development reasons. In Kelo v. City of New London (2005), the Connecticut processed <sup>1</sup> a statute permitting eminent domain for economic development even in conditions where blight was absent. Consequently, there existed another angle <sup>1</sup> that, the development corporation was a private enterprise hence the Appellant cited that it was unconstitutional that the state acquires a <sup>1</sup> private property from a particular individual or maybe a corporation and then transfer it to another person if it was just acting in that way because the repossession would engage the property to generate better tax revenue.

References

De, V. H. P., Schneider, G. A., & David, R. (1976). *Civil law and the Anglo-American lawyer: A case-illustrated introduction to civil law institutions and method*. Dobbs Ferry, N.Y: Published for the Parker School of Foreign and Comparative Law, Columbia University [by] Oceana Publications.

Paul M. Hebert Law Center. (2008). *Journal of civil law studies: JCLS*. Baton Rouge, LA: Center of Civil Law Studies, Paul M. Hebert Law Center, Louisiana State University.

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