

RECENT CHANGES TO CALIFORNIA'S REDEVELOPMENT LAW.

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A recent United States Supreme Court case upheld the power of local government officials to condemn an area of beachside property in Connecticut for economic development purposes. This case appears to provide government with more authority to condemn land in the name of "economic development," however, recent amendments to California's Redevelopment Law further restrict the government's condemnation power in this state.

The Fifth Amendment of the United States Constitution contains the Takings Clause and it was recently interpreted by the United States Supreme Court in *Kelo v. New London, Connecticut*, 545 U.S. 469 (2005). The Court determined that a city's decision to take property for the purpose of economic development satisfied the "public use" requirement of the Fifth Amendment.

In *Kelo*, the city of New London, Connecticut, approved a development plan aimed at economic revitalization. The plan involved a 90-acre area consisting of seven parcels to be developed for specified residential, commercial and recreational uses. The city determined that the area was sufficiently distressed to justify a program of economic rejuvenation, and formulated an economic development plan that it believed would provide appreciable benefits to the community. The plan included a variety of commercial, residential and recreational uses of the land. Most of the land was acquired by purchase, but the city attempted to acquire the remainder of the area by condemnation. In response, owners of certain parcels of properties brought a lawsuit claiming that the takings violated the "public use" restriction in the Fifth Amendment's Taking Clause.

The Court stated that under the Takings Clause, a city is forbidden from taking land for the purpose of conferring a private benefit on a particular private party. However, in this case, the Court found that the takings "would be executed pursuant to a 'carefully considered' development plan" which would greatly benefit the community. The Court found that the city's redevelopment plan constituted a "public purpose" because of the comprehensive character of the city's plan, the thorough deliberation that preceded its adoption, and the limited scope of the Court's review. The Court thus held that the development plan served a public purpose, and satisfied the "public use" requirement of the Fifth Amendment.

The Court specifically stated that states that have eminent domain statutes may place further restrictions on their exercise of eminent domain. The Court referred to California's redevelopment law, which limits local officials to taking land for economic development only in blighted areas.

In response to the *Kelo* decision, in 2006 the California Legislature proceeded to further limit the government's authority to take land for economic development by amending the California's Community Redevelopment Law Reform Act of 1993. The specific amendments are too lengthy to discuss here. However, the Legislature stated that its intent in enacting the amendments was to restrict the definition of "blight" and to require better documentation of local officials' findings regarding the conditions of blight. The Legislature also stated that its purpose is to focus public officials' attention on properties with physical and economic conditions that are so significantly degraded that they seriously harm the prospects for physical and economic development without the use of redevelopment. The Legislature further stated that its intent was also to lower the barriers to challenge local officials' decisions regarding redevelopment and to increase the opportunities for oversight of redevelopment activities.

It is thus clear that the amendments are intended to make it more difficult for government officials to attempt to condemn land for economic development in California, giving property owners, residents, voters and other members of the public a greater voice in the government's decision to condemn land for this purpose. ■