# Kelo V New London

## What did the United States Supreme Court hold with respect to the principal issue in the case?

The United States Supreme Court simply held that the ‘public use’ requirement should not be interpreted by applying the literal meaning only, but should also be emboldened as to also cover the actual intent and purpose. Therefore, as opposed to only considering ‘public use’ as the literal use of a facility by the public, the United States Supreme Court held that if the purpose of such takings is to increase the greater good of the public, even though the actual property will not be purposively owned for use by the public, then, the greater good of the public should take preference. In this respect, the United States Supreme Court held that the condemnation of the residential properties in the designated area was within the within the meaning of the ‘public use’ requirement, as provided for under the Takings Clause of the Fifth Amendment. The decision of the United States Supreme Court was simply meant to say that the ‘public use’ requirement under the *Taking Clause of the Fifth Amendment* was not intended to only apply where the property or the facility is placed under the ownership of the public, but also where the ownership could be in the hands of private entities, but whose beneficial outcomes are greater than when the property or facility was owned and used by the public. Further, the United States Supreme Court held that well thought-out and reasoned public interest, should take preference over the use to which a property or facility is applied.

## Considering the impact of the ruling in this case, what arguments could you make against the decision?

The major problem with the judgment is that it allowed for the transfer of rights to property from one private entity to another who would reap the primary benefits of such property use, with the public only obtaining incidental benefits (Callies, 2008). Indeed, the deserting of the court from the literal meaning of the ‘public use’ requirement to encompass public purpose is wrong, because the spirit and intent of the Takings Clause of the Fifth Amendment targeted a legal acquisition and taking to be a transfer from private ownership right to government or public entity ownership, as opposed to a transfer of rights from one private entity to another (Somin, 2015).

The application of the takings meaning in a manner that allows for the taking of property or asset from one private entity to be conferred for use and benefit of another private is in itself a dangerous precedent. This is because; taking over the rights held by one private entity and transferring the same right to another private entity does not truly meet the spirit of the ‘public use’ requirement under the Taking Clause of the Fifth Amendment. This is because, while the intent of transferring the property or asset right from one private entity to the other is to give acquire a certain intended public benefit and purpose, the mere fact that one private entity is denied the right to use the property and its benefit, which are given to another private entity is in itself a violation of the right of the initial right holder (Burnett, 2016). For example, denying the initial private right holder of the land, Susette Kelo, the right to enjoy her property and transferring the right to enjoy the benefits that comes out of the use of the property, for example revenues and profits to Pfizer Inc., is a violation of Kelo’s rights.

## References

Burnett, G. F. (2016). *The safeguard of liberty and property: The supreme court, kelo v. new london, and the takings clause*. Lexington Books.

Callies, D. L. (2008). *Public use and public purpose after Kelo v. City of New London*. Newark, NJ: LexisNexis.

Somin, I. (2015). *The grasping hand: Kelo v. City of New London and the limits of eminent domain*. Chicago ; London : University of Chicago Press.