

ACTIVITY 15.1

SUPREME COURT CASE OF *KELO V. CITY OF NEW LONDON, CONNECTICUT*

Directions: The following is a hypothetical press conference held after the U.S. Supreme Court ruling in the case of *Kelo v. the City of New London, Connecticut* (2005). The justices attending the press conference are Justice John Paul Stevens, who wrote the opinion for the majority in *Kelo*, and Justice Sandra Day O'Connor, who wrote a dissenting opinion. The Director of Communications for the U.S. Supreme Court will moderate the meeting, and three reporters will pose questions. Read the **Background Memo for Reporters**. After your class has gone over the **Press Conference Transcript**, respond to the questions that follow.

Background Memo for Reporters

This case focuses on the legal concept of eminent domain. *Eminent domain* means “superior ownership.” It refers to the power of government to take privately owned land for public use.

The community of New London, Connecticut, with a population of about 24,000, was hurt in 1996 when the Naval Undersea Warfare Center, an employer of more than 1,500 people in the area, was closed.

City leaders responded with a redevelopment plan to help get the community back on its feet. They wanted to develop 90 acres of waterfront land for construction of new office buildings, upscale housing, a marina, and other facilities near a \$300 million research center being built by Pfizer, a large pharmaceutical company. The plan was expected to generate hundreds of jobs and well over \$500,000 in additional tax revenues.

Most property owners in the area slated for redevelopment agreed to the city’s offer to purchase their homes, and their homes were torn down. However, 15 home owners, holding 1.5 acres, refused to go along. Some had lived in the area for many years. Others had just remodeled their homes. These homeowners challenged the takeover effort in court. The Connecticut Supreme Court upheld the city’s plan. The homeowners appealed, and the case ultimately landed in the U.S. Supreme Court.

U.S. Supreme Court Press Conference Transcript June 23, 2005

Supreme Court Director of Communications: Thanks, everyone, for coming to the first-ever press conference held by the U.S. Supreme Court following a court ruling.

Before we begin, let me give some background to the Supreme Court case of *Kelo v. City of New London, Connecticut*.

In a 5-4 decision today, June 23, 2005, the U.S. Supreme Court ruled that local governments may force property owners to sell their property in order to make way for private economic development when local government officials believe that such development would benefit the public. Local governments, according to this decision, could take such actions even if the property is not rundown and even if the success of the new development is not certain.

Reporter 1: Justice Stevens, can you tell us the basis for your ruling?

Justice Stevens: Of course. I wrote the opinion for the majority on the Court. We cited other court cases in which the “public use” clause in the Fifth Amendment has been interpreted to include

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not only such traditional public projects as parks, bridges, and highways, but also slum clearance. We concluded that a “public purpose” such as creating jobs in a depressed city is constitutional and satisfies the requirements of the Fifth Amendment.

Reporter 2: Justice O’Connor, is that how you see it?

Justice O’Connor: With all due respect to my colleagues on the Court, I must respectfully but emphatically disagree. I agree with the opponents of this ruling who argued that using the power of government to forcibly take land from one private owner and give it to another private owner, even with fair compensation, violates the Fifth Amendment to the Constitution.

Reporter 3: What say you, Justice Stevens?

Justice Stevens: While I dislike disagreeing with my esteemed colleague, Justice O’Connor, I think that she and her colleagues in the minority in this case are not correct. I believe that the Court should not second-guess local governments when the question is whether a given course of action serves a public purpose. Promoting economic development is a traditional and long-accepted function of local government.

Reporter 1: Justice O’Connor? Do you have a response?

Justice O’Connor: I wrote in the dissenting opinion that this ruling by the majority favors the most powerful and influential people in society, leaving small property owners little recourse. This is not what the Founders intended in writing the Fifth Amendment. I wrote the following: 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.” This is an abuse of eminent domain by local government.

Reporter 2: Justice Stevens, Justice O’Connor makes an important point. And many Americans, I believe, would tend to agree with her.

Justice Stevens: The Supreme Court is not influenced by public opinion polls. We do our best to interpret documentary evidence in the context of earlier rulings. This decision affirms the right of state and local governments seeking to use eminent domain for urban revitalization, a legitimate public purpose. Absent such efforts, many city centers have decayed.

Supreme Court Director of Communications: I see that our time is nearly up. We have time for only one more question.

Reporter 3: Justice O’Connor, do you have any additional thoughts?

Justice O’Connor: I am sympathetic to the problems facing city leaders who wish to improve blighted areas. Nonetheless, these leaders have to work within the rules of private property ownership. If they wish to acquire private land and use it for what are essentially private purposes, they must do it the old-fashioned way. They should provide the land owners with persuasive offers to sell voluntarily, or they should look elsewhere.

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Questions for Discussion

1. What was the redevelopment plan proposed by New London officials?
2. Who objected to the plan?
3. What did the U.S. Supreme Court rule in the case of *Kelo v. City of New London*?
4. What reasons did Justice Stevens give in explaining the Court's ruling?
5. What reasons did Justice O'Connor give in opposing the court's ruling?
6. Should political officials be able to take property from some private owners and transfer it to others if they think that doing so will promote the public good? Explain your answer.