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REVIEW & OUTLOOK

Kelo's Consequences

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Today marks the second anniversary of *Kelo v. New London*, the Supreme Court ruling that gave governments the authority to seize property on behalf of private developers. Since the 5-4 ruling, many state governments have taken some sort of action to limit these "takings." But in areas that legislators have failed to protect -- which usually turn out to be where low-income minorities reside -- citizens are still exposed to eminent domain abuse.

A recent study by the Institute for Justice compared the demographic characteristics of 184 areas targeted by eminent domain to the surrounding communities. The report shows that eminent domain disproportionately affects poor, ethnic minorities with lower levels of education. Minorities comprised 58% of the population in areas targeted by eminent domain, compared to 45% in the surrounding communities. The median income of residents targeted by eminent domain is less than \$19,000 per year, compared to more than \$23,000 elsewhere. And 25% live at or below the poverty line, versus only 16% elsewhere.


New Jersey resident Jim Keelen doesn't need statistics to define eminent-domain abuse. His home and business, located one block away from the Atlantic Ocean, have been slated for seizure by local government officials. His business, J&M Keelen Transportation Co., runs special-education transportation for public schools in two local counties.

If the government is successful in seizing his property, Mr. Keelen and his 85 employees -- most of them low-income minorities -- will be forced to vacate their office, a restored historical building, so that private developers can tear it down and put up condominiums in its place. His home, located next door, would be torn down as well.

New Jersey is one of 41 states that have enacted some kind of eminent domain reform. Florida and a couple of other states have done the most to limit eminent domain for private development, but others, such as New Jersey, still allow a loophole based on the definition of "blight." In effect, these laws form a patchwork of property rights that can leave many Americans vulnerable to politicians and local officials allied with rich private developers. ([See Carla Main's feature](#)¹.)

Congress is full of proposals to enact federal protections against eminent domain abuse, but so far no

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measure has gained political traction. Public support for legislative reform remains strong, however, with an overwhelming majority of Americans favoring some kind of limits on government takings. Opposition comes from city and state governments.

If the consequences of *Kelo* seem surprising, they were anticipated. In her powerful dissent in the case, Justice Sandra Day O'Connor wrote that "fallout from this decision will not be random." She predicted that "the government now has license to transfer property from those with fewer resources to those with more." Two years later, her predictions are coming true, and short of a Supreme Court reversal, more legislative protection for property rights is needed.

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