



## **Supreme Court of the United States**

### **Shirley Roth Sandberg v. City of Burlington**

#### **Case Precedent Update**

**By Joseph Resnek**

***Berman v. Parker (1954)***

#### **BACKGROUND**

In 1945, the United States Congress passed the District of Columbia Redevelopment Act of 1945 to address the vast blighted area found in the District of Columbia. The Act created a commission of five members called the District of Columbia Redevelopment Land Agency and granted it the power to redevelop blighted areas and eliminate any "blighting factors or causes of blight." The act granted the Agency the power of eminent domain if necessary. After approval of the plan, owners of a department store in the area designated to be redeveloped brought suit to the court. The landowners claimed that because the department store itself was not blighted, its redevelopment was not necessary and would not constitute a public use. The owners further argued that taking the land under eminent domain and giving it to redevelopers amounted to "a taking from one businessman for the benefit of another businessman."

#### **OPINION OF THE COURT**

The court voted 8-0, holding that private property could be taken for a public purpose with just compensation. Justice Douglas further expanded the definition of "public use" to include "public purpose" based on physical, aesthetic, and monetary benefits.

***Hawaii Housing Authority v. Midkiff (1984)***

**BACKGROUND**

After extensive hearings in the mid-1960s, the Hawaii legislature discovered that while the State and Federal Governments owned nearly 49% of the State's land, another 47% was in the hands of only 72 private landowners. The Hawaii Legislature had concluded that the oligopoly in land ownership was hurting the general economy, and therefore seized the land to redistribute.

**OPINION OF THE COURT**

In an 8-0 decision the court voted that the Hawaiian act was constitutional. Hawaii's act to regulate the oligopoly was seen as a classic exercise of the State's police powers, and a comprehensive and rational approach to identifying and correcting market failure and satisfied the public use doctrine. Land did not have to be put into actual public use in order to use eminent domain.

***Kelo v. New London (2005)***

**BACKGROUND**

The city of New London, Connecticut, had by the early 2000s fallen on hard economic times. The city's tax base and population were continually decreasing, and city leaders were growing desperate for a new hope of economic development. In 1998, the pharmaceutical company Pfizer began construction of a major new research facility on the outskirts of the Fort Trumbull neighborhood of New London. Seeing an opportunity, the city of New London decided to redevelop a portion of the Fort Trumbull neighborhood. However, 15 residents refused to sell their lots to the city, blocking the redevelopment plans.

The city of New London chose to exercise its power of eminent domain. The city ordered the development corporation, a private entity acting as the city's legally appointed agent, to condemn the 15 holdout owners' lots.

### OPINION OF THE COURT

The governmental taking of property from one private owner to give to another in furtherance of economic development constitutes a permissible "public use" under the Fifth Amendment. Supreme Court of Connecticut affirmed.