

Kelo decision keeps casting a dark shadow over churches

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by [Randy Bright](#)



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It has been nearly nine years since the unconstitutional decision by the U.S. Supreme court gave governments the right to abuse the practice of eminent domain.

That 2005 decision not only affects how decisions are made concerning development, but will have long-term effects on the abilities of churches to build new facilities or to keep the ones they currently own.

The decision that gives cities sweeping powers to take privately owned homes, businesses and other properties under the guise of the “public good” is literally a license to steal.

The decision is a result of the case of *Kelo et. al. v. New London*. New London is a town of 26,000 in Connecticut that wanted to take a number of homes to clear land for a new conference center, hotel, offices, condominiums and an aquarium.

Residents found notices posted on their doors on the day before Thanksgiving in 2000 giving them 4 months to move out. The residents filed suit against the City of New London and took the case through the court system until they finally reached the Supreme Court in February of 2005.

As a result of this ruling, churches will eventually become prime targets for eminent domain for a number of reasons.

Neighborhood church buildings are increasingly looked upon by their neighbors as nuisances.

The reasons that will be given will be that they produce too much traffic, and therefore are unsafe, that they produce too much noise, and that their lights bother neighbors at nighttime.

When these neighborhood churches attempt to expand, they will be denied a permit because they will require too much parking or can't bring their buildings up to code.

As a result, these churches may forego improvements, eventually deteriorating to the point that they become “blight” and may be removed through the use of eminent domain.

Another reason that churches will become targets for eminent domain is because they don't pay property taxes. Many churches own large tracts of land that would generate significant property taxes if they could be placed in the hands of private developers.

The Supreme Court stated that when eminent domain is used, the property owners must be justly compensated. But what that means exactly is not clear.

A church that is going to be taken by eminent domain has to look at just compensation from three different values.

The first value is the appraisal value, or what their property is worth when it is formally appraised.

The second value is the market value, or what the property could actually be sold for.

The third value is its replacement value. This is the cost of building a new facility and moving costs. The church might also lose membership and their contributions when moving to a new area. This is obviously the highest of the three.

The actual cost that a church will face is the replacement value, but it is more likely that they will only be offered the appraisal or market value, either of which will be significantly less than the replacement value. This could mean that churches will have insufficient funds to rebuild.

Another reason that churches are going to be targets is because our city governments are becoming increasingly secular and anti-Christian. In many cities, churches are no longer viewed as assets for the community, but as hindrance to economic development. As that attitude becomes widespread, look for churches to get less serious consideration when it comes time to grant permission to build anything new within city limits.

The Kelo decision had another far-reaching impact on our Constitutional rights regarding property.

The fact that the U.S. Supreme Court made it possible to take property from one private owner and give it to another has given governments the ability to force property owners to the bargaining table (with government getting the bargain), and accomplish a taking merely with the threat of use of eminent domain.

The only balance that remains is the chilling affect that frequent eminent domain abuse will discourage people from building. Why build something if the government can simply take it on a whim?

Churches have to get themselves prepared for more eminent domain actions against them, but even so, I believe that it is possible for churches to continue to grow and thrive. There are organizations that have come about to help people fight eminent domain. More on that next week.

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