



# VICTIMIZING THE VULNERABLE

The Demographics of Eminent Domain Abuse

By Dick M. Carpenter II, Ph.D. & John K. Ross

Institute for Justice | June 2007

# VICTIMIZING THE VULNERABLE

The Demographics of Eminent Domain Abuse

by

Dick M. Carpenter II, Ph.D.

John K. Ross

Institute for Justice

June 2007

## *Executive Summary*

**I**n *Kelo v. City of New London*—one of the most reviled U.S. Supreme Court decisions in history—the Court upheld the use of eminent domain by governments to take someone’s private property and give it to another for private economic development. In a major expansion of eminent domain power, the now-infamous *Kelo* decision marked the first time the U.S. Supreme Court approved the use of eminent domain for purely private development under the Public Use Clause of the Fifth Amendment to the U.S. Constitution, which traditionally had been limited to taking property for unambiguous public uses, such as schools or courthouses.

.....

In their dissents, Justices Sandra Day O’Connor and Clarence Thomas not only pilloried the five justices in the majority for this expansion of so-called “public use,” but also predicted dire consequences as a result of the decision: Poor, minority and other historically disenfranchised and comparably powerless communities would be disproportionately hurt through eminent domain abuse. Although it is well documented that urban renewal projects of the 1950s and 1960s targeted the poor and minorities, some question whether such dynamics are true in contemporary redevelopment projects, as evidenced,

for example, by the neighborhood at the center of the *Kelo* case—a working-class area different than those typically envisioned as in need of “renewal.”

This research uses census data to test the predictions of Justices O’Connor and Thomas. It compares the demographic characteristics of 184 areas targeted by eminent domain for private development to their surrounding communities to see if such areas are, in fact, more likely to be populated by the poor, ethnic minorities and those with lower levels of educational attainment.

Results confirm the Justices' predictions. Specifically, in project areas in which eminent domain has been threatened or used for private development:

**58%**  
of the population  
includes minority  
residents, compared  
to only 45% in  
the surrounding  
communities

the median  
income is less  
than **\$19,000**  
per year, compared  
to more than \$23,000  
in surrounding  
communities

**25%**  
live at or below  
poverty, compared  
to only 16% in  
surrounding  
communities

a greater percentage  
of residents have less  
than a high school  
diploma and smaller  
percentages have  
various levels of college  
education compared  
to surrounding  
communities

Taken together, more residents in areas targeted by eminent domain for private development, as compared to those in surrounding communities, are ethnic or racial minorities, have completed significantly less education, live on significantly less income, and live at or below the federal poverty line. Just as Justices O'Connor and Thomas predicted, eminent domain abuse is most likely to fall on the politically weak. Those often least-equipped to represent their own interests in the face of the use of eminent domain and their eventual displacement

through this power, inequitably bear not only an economic burden but also a socio-cultural one through the loss of social networks and support systems inherent in neighborhoods, small businesses and churches.



**Just as Justices O'Connor and Thomas predicted,  
eminent domain abuse is most likely to  
fall on the politically weak.**



## Expanding “Public Use”

In one of the most reviled decisions in recent history, the U.S. Supreme Court, on June 23, 2005, upheld in *Kelo v. City of New London* the government’s use of eminent domain to take someone’s private property and give it to another for private economic development.<sup>1</sup> The *Kelo* decision marked the first time the U.S. Supreme Court approved eminent domain for purely private development under the Public Use Clause of the Fifth Amendment to the U.S. Constitution. Traditionally, the power of eminent domain had been limited to taking property for schools, roads and other unambiguous public uses.

The expansion of the eminent domain power began in earnest with the Court’s 1954 decision in *Berman v. Parker*, which upheld the constitutionality of urban renewal, a massive effort by federal, state and local governments to “revitalize” urban areas by removing slums and eliminating blight. Before *Berman*, with some limited exceptions, private property could only be taken through eminent domain for public uses. In *Berman*, however, the Court transformed the words “public use” to mean “public purpose,” thereby broadening the definition.<sup>2</sup> The purported public purpose underlying the takings in *Berman* was the removal of blight, but slum clearance efforts of the 1950s and 1960s led to the demolition and destruction of many communities. Moreover, in the words of the time, urban renewal more often than not meant “Negro removal.”<sup>3</sup>

Over time, some state courts expanded on *Berman* and further degraded protection for property owners by declaring that mere “public benefits” from possible increased tax revenue or hoped-for job creation justified the private-to-private transfer of property through eminent domain, regardless of a property’s condition. Even well-maintained properties could be taken. The trend of broadening the definition

of “public use” to “public purpose” to “public benefit” culminated with *Kelo*, in which the nation’s highest court held that promoting economic development is a function of the government and provides a legitimate public purpose for private-to-private transfer of property. The Court, however, was closely divided, with a narrow 5-4 vote upholding eminent domain for private development. In a strongly worded dissent, Justice Sandra Day O’Connor wrote:

*Under the banner of economic development, all private property is now vulnerable to being taken and transferred to another private owner, so long as it might be upgraded—i.e., given to an owner who will use it in a way that the legislature deems more beneficial to the public—in the process. To reason, as the Court does, that the incidental public benefits resulting from the subsequent ordinary use of private property render economic development takings “for public use” is to wash out any distinction between private and public use of property—and thereby effectively to delete the words “for public use” from the Takings Clause of the Fifth Amendment.<sup>4</sup>*

Justice O’Connor also predicted adverse consequences resulting from the majority’s decision:

*Any property may now be taken for the benefit of another private party, but the fallout from this decision will not be random. The beneficiaries are likely to be those citizens with disproportionate*

## Real-World Effects of Eminent Domain Abuse

Reports like these, that use averages representing areas from multiple cities and states, can sometimes under-represent the real-world effects of eminent domain abuse. But residents in project areas like that in El Paso, Texas, know all too well the shadow eminent domain casts.

In March 2006, the Paso Del Norte Group (PDNG) and the city of El Paso introduced a redevelopment plan that called for the use of eminent domain to redevelop more than 100 acres of downtown.<sup>5</sup> The population in this project area is almost 100 percent minority, 56 percent live at or below poverty and 80 percent have less than a high school diploma.

The working-class area will be replaced, if PDNG's vision is realized, with upscale lofts, apartments, shops and entertainment venues to lure new residents, shoppers and tourists. Not without precedent, residents fear the new neighborhood will not be as affordable as promised.<sup>6</sup>

In the face of mounting criticism over the project, Mayor John Cook announced in May 2006 that the city would start the plan over again and that eminent domain would only be used as a "last resort."<sup>7</sup> In October, City Council members approved the plan.<sup>8</sup>

It isn't the first time city officials pushed redevelopment on the area: "There have been 53 plans in the last 50 years," said Councilman Steve Ortega, a supporter of eminent domain for the project. "Now you have a business community that is ready to finance most of the plan, whereas [before] most of the plan was left to the public sector."<sup>9</sup> The public sector, however, will be in charge of conveying property to the "business community" from unwilling sellers.

In December 2006, City Council voted not to condemn any property until November 2008, a small reprieve to residents. But it also means more than 300 properties sit under the cloud of condemnation, which inevitably impacts day-to-day living, property values and any negotiations.<sup>10</sup>

*influence and power in the political process, including large corporations and development firms. As for the victims, the government now has license to transfer property from those with fewer resources to those with more. The Founders cannot have intended this perverse result.<sup>11</sup>*

Justice Clarence Thomas also dissented, noting: "Allowing the government to take property solely for public purposes is bad enough, but extending the concept of public purpose to encompass any economically beneficial goal guarantees that these losses will fall disproportionately on poor communities."<sup>12</sup> He went on to cite the disastrous effects of urban redevelopment in the middle 20<sup>th</sup> century on minority communities, concluding, "Regrettably, the predictable consequence of the Court's decision will be to exacerbate these effects."<sup>13</sup>

## Urban Renewal's Legacy

For urban affairs scholars, the predictions of Justices O'Connor and Thomas represent a familiar refrain. For years, researchers have noted that the trend among urban redevelopment strategies is to attract wealthier middle classes back to the inner city, typically resulting in the replacement of one population with another.<sup>14</sup> Much of the research focuses on urban renewal, which generally refers to the set of redevelopment policies and projects used during the 1950s and 1960s to make room for downtown commercial development activities, more upscale residents, or both, by leveling "blighted" neighborhoods and displacing existing populations from central-city areas.<sup>15</sup> Demographically, these displaced populations

were disproportionately ethnic or minority communities<sup>16</sup> and/or low-income.<sup>17</sup>

For example, from 1949 to 1963, urban renewal displaced an estimated 177,000 families and another 66,000 individuals, most of them poor and most of them black.<sup>18</sup> Unfortunately, precise numbers are not available, and these data have been criticized for their conservatism, that is, underestimating the proportion of African-Americans affected. But of what is known of the race of 118,128 of the families relocated from 1949 to 1963, 78 percent were non-white.<sup>19</sup> Moreover, only 48,000 new housing units were constructed during the same period, and only 20,000 of those constituted low-cost housing.<sup>20</sup>

These residents did not acquiesce to displacement easily. Renewal efforts led to political battles in which poor and minority residents fought to save their neighborhoods.<sup>21</sup> But they typically held little power to resist the changes befalling their neighborhoods, as strong political coalitions formed to advance an agenda of replacement.<sup>22</sup> A number of historical studies have documented the role of powerful actors, such as urban mayors, federal officials and real estate representatives, in the development of post-war urban renewal and redevelopment, which left urban residents largely powerless in the process.<sup>23</sup>

### *Eminent Domain Abuse Today*

Yet, just how relevant to today's redevelopment context are the comparisons to urban renewal made by Justices O'Connor and Thomas? Given the social and economic changes that have occurred in the United States since the post-war urban renewal era, does contemporary use of eminent domain inequitably threaten specific populations as it did in the 1950s and 1960s? Some might argue it does not; contemporary redevelopment projects using eminent domain are not exclusively set in traditional urban areas. For example, the

## **"Any Property May Now Be Taken"**

Justices O'Connor and Thomas predicted that eminent domain abuse would fall hardest on the poor and minorities—as this report confirms—but they also understood that under *Kelo*, any property can be taken for private development. Indeed, neighborhoods affected by eminent domain are not *exclusively* those populated by residents who are poor, minority or less educated. In fact, 19 of the project areas from this sample are more accurately described as white, middle-class neighborhoods.<sup>24</sup>

Take, for example, Lake Zurich, Ill., a small community of about 18,000 residents. With a population of only 7 percent minority, 8 percent with less than a high school diploma and 0.3 percent at or below poverty, the project area in this community looks nothing like the typical project areas in this report.

Yet, in 2001, consultants S.B. Friedman recommended that city officials include 36 acres of downtown in a plan that allowed for the use of eminent domain.<sup>25</sup> In 2004, officials adopted the plan, drawn by Chicago architect Lucien LaGrange, which called for private developer McCaffery Interests to remake the old resort village's Swiss Alps-themed buildings into new restaurants, shops and condos.<sup>26</sup>

In February 2005, residents held a candlelight vigil to protest eminent domain.<sup>27</sup> "Is it public use?" asked Sarah Hudson. "I don't think so. Public use to me means a road or something like that; not condos at half-a-million dollars."<sup>28</sup> "It's not for sale," said Hudson of the house her grandfather stuccoed around 1911. Her building has since been bulldozed, as have dozens of lake houses and a 130-year-old farmhouse.<sup>29</sup>

Although village officials filed eminent domain proceedings in February 2005 against the owners of five houses and an apartment building, they held off acting until after the *Kelo* decision.<sup>30</sup> In April 2006, the last of the remaining property owners sold after dropping a counter-lawsuit contesting the village's eminent domain authority.<sup>31</sup> According to village administrator John Dixon, that meant the village had acquired 34 properties by "mutual agreement."<sup>32</sup>

neighborhood in question in the *Kelo* case differed in several important ways from areas typically envisioned as in need of “renewal.”<sup>33</sup>

Therefore, we undertook this research to discern the demographic profiles of those living in areas targeted by the type of redevelopment and eminent domain at the center of the *Kelo* case and so widely used across the country.<sup>34</sup> In so doing, we sought to answer: Are the predictions of Justices O'Connor and Thomas valid? Does the use of eminent domain for private-to-private transfer disproportionately affect poor, minority or other less-politically powerful populations?

To answer these questions, we used data from the 2000 census to examine the characteristics of 184 areas targeted by eminent domain for private development (called project areas hereafter) to compare them to their surrounding communities. These project areas were zones within a municipality for which the use of eminent domain for private

development was designated. More information about the methods and analyses are included in Appendix A.

## “Perverse Results”

As the numbers in Table 1 indicate, the predictions of Justices O'Connor and Thomas held true: Losses from eminent domain abuse “fall disproportionately on the poor,” and particularly on minorities.<sup>35</sup> Eminent domain project areas include a significantly greater percentage of minority residents (58%) compared to their surrounding communities (45%). Median incomes in project areas are significantly less (\$18,935.71) than the surrounding communities (\$23,113.46), and a significantly greater percentage of those in project areas (25%) live at or below poverty levels compared to surrounding cities (16%).

*Table 1 Averages for Project Areas and Surrounding Communities<sup>a</sup>*

	Averages	
	Project Area	Community
Minority*	58%	45%
Median Income*	\$18,935.71	\$23,113.46
Poverty*	25%	16%
Children	25%	26%
Senior Citizens	13%	12%
Less than High School Diploma*	34%	24%
High School Diploma	28%	28%
Some College*	22%	25%
Bachelor's Degree*	9%	13%
Master's Degree*	3%	5%
Professional Degree*	1%	2%
Doctorate*	.6%	.9%
Renters*	58%	45%

a. Standard deviations are included in Appendix B

\*Difference between project areas and surrounding communities is statistically significant ( $p < .05$ , which means we can be sure with 95% confidence that the differences found here in the sample data will be true in the greater population)



Residents of project areas are significantly less educated than those living in the surrounding communities. A greater percentage of those in project areas (34%) hold less than a high school diploma as compared to the surrounding cities (24%), and a consistently greater percentage of those in surrounding communities hold various levels of college degrees compared to the project areas.

Finally, a significantly greater percentage of residents in project areas rent their homes (58%) compared to residents in surrounding cities (45%). We found little difference in the percentages of children and senior citizens between the project areas and the communities.

Taken together, more residents in areas targeted by eminent domain—as compared to those in surrounding communities—are ethnic or racial minorities, have completed significantly less education, live on significantly less income, and significantly more of them live at or below the federal poverty line. As Justices O'Connor and Thomas predicted, “extending the concept of public purpose to encompass any economically beneficial goal guarantees that these losses will fall disproportionately on poor communities.”

Of course, these data do not show or even imply that governments and developers deliberately discriminate by targeting particular areas with eminent domain *because* there are poorer, minority or less-educated residents. Yet, these results reveal such communities are disproportionately affected nonetheless, and these are typically communities less able to exert significant political influence in defense of their homes and neighborhoods. The results for such residents can be disastrous. As Justice Thomas discussed, and as researchers have acknowledged,<sup>36</sup> when poor residents are displaced as a result of eminent domain, they bear enormous economic and psychological burdens that even those with middle-incomes find difficult to shoulder.

The powerlessness they experience in the process also can negatively affect their well-being. Research into the effects of powerlessness reveal distinct emotional, psychological and physiological implications for those who perceive a lack of control

over their personal circumstances.<sup>37</sup> Researchers find that displacement often elicits negative emotional and health reactions due to the loss of neighborhoods where residents held strong attachments to friends, neighbors, churches and local small businesses.<sup>38</sup> Displaced residents further find it difficult to replicate critical community networks and culture. Justice Thomas noted these losses when he wrote, “‘urban renewal’ programs provide some compensation for the properties they take, but no compensation is possible for the subjective value of these lands to the individuals displaced and the indignity inflicted by uprooting them from their homes.”<sup>39</sup>

## *Real Protections*

Unfortunately, these predictions by Justices O'Connor and Thomas remain largely and remarkably unacknowledged to date. Justice Thomas called upon our past to inform present circumstances, and data in this study indicate the current effects of eminent domain for private development may mirror those of an unfortunate time when “urban renewal” meant “Negro removal.” That is, the current trend of using eminent domain for private development, much like the failed urban renewal policies of decades ago, falls hardest on minorities and those of limited means—people often least equipped to defend themselves through the political process and thereby left most vulnerable to abuse by the Court’s expansion of the eminent domain power.

Given the awesome nature of that power, and the inequitable effects demonstrated herein, political “quick fixes,” bureaucratic tinkering, or promises of eminent domain as a “last resort” fall far short of protecting citizens who value their property as neighborhood and home from government leaders and developers who see property only for its exchange value. The only real solution is prohibiting the use of eminent domain for private development to protect the constitutional rights of all citizens, not least of which include those threatened by “Robin Hood in reverse.”<sup>40</sup>

## Appendix A: Methods

### Sample

The sample was drawn from an Institute for Justice database of areas for which eminent domain for private development has been used or designated for residences since 2003, which closely ties these results to the predictions of Justices O'Connor and Thomas. The methods for collecting information for this database are the same that IJ followed in two previous reports documenting the extent of eminent domain abuse nationwide.<sup>41</sup> Projects were included in

this report based on the availability of project maps, which ensured a more accurate alignment between project areas and block groups, as described below. Thus, the sample was created by collecting all projects from the database that included residences for which maps were available; project areas without maps were not included. The sample used here is 53 percent of the 348 projects in the database that are known to include residences; the database contains a total of 800 projects, including both businesses and residences.

Table A.1 lists the cities and states in this sample. As indicated, the project areas came from 112 cities in 26 states and the District of Columbia.

Table A.1 Cities and States in the Sample

State	City	State	City	State	City
CA	Concord	KY	Covington	NY	New York
	Fontana	MD	Baltimore		Patchogue
	Fremont	MO	Arnold		Peekskill
	Fresno		Liberty		Port Chester
	Los Angeles		Ozark		Syracuse
	Lemon Grove		Richmond Heights		Yonkers
	Livermore		Rock Hill	OH	Akron
	Long Beach		Rolla		Columbus
	Orange		St. Louis		Dayton
	Port Hueneme		Valley Park		Garfield Heights
	San Bernardino	NE	Lincoln		Lorain
	San Diego		Omaha		Portsmouth
	Santa Clarita	NJ	Asbury Park		Riverside
CO	Fort Collins		Camden		Youngstown
	Lakewood		Carteret	OK	Tulsa
CT	Middletown		Cinnaminson	OR	Keizer
	Norwalk		Cliffside Park		Roseburg
DC	Washington		Cherry Hill	PA	Canonsburg
FL	Cape Coral		Lindenwold		Greensburg
	Coral Springs		Lodi		Jenkintown
	Daytona Beach		Long Branch		Philadelphia
	Jupiter		Maplewood		Pittsburgh
	Lakeland		Millville		Pottstown
	Riviera Beach		Neptune		Washington
	Tampa		Neptune City	RI	Warwick
GA	West Point		Newark	TN	Knoxville
IA	Burlington		Paulsboro		Lenoir City
	Clinton		Trenton		Memphis
	Council Bluffs		Ventnor City	TX	El Paso
IL	Chicago		Vineland		Fort Worth
	Clarendon Hills		Westville		Houston
	Collinsville	NY	Albany	UT	Ogden
	Lake Zurich		Cheektowaga	VA	Newport News
	Machesney Park		Elmira		Richmond
	Oak Forest		Farmingdale		Staunton
	Riverside		Haverstraw	WA	Auburn
IN	South Bend		Niagara Falls		Renton
KS	Kansas City		Westbury		

The project areas vary in size from several blocks to those encompassing multiple neighborhoods. Likewise, the communities in which these project areas reside range in size from small cities (i.e., Lawnside, N.J., pop. 2,724) to large metropolitan areas (i.e., New York City, pop. 8,008,278). Table A.2 includes population statistics for the project areas and surrounding communities.

from within the project area. Using the address, the specific block group was identified for each project area. Appropriate block group data were then collected for each project area.

In some cases, project areas were smaller than block groups, potentially creating a situation where the project area demographics would not be accurately measured, similar to criticism posed by

*Table A.2 Population Statistics for Project Areas and Surrounding Cities*

	Average	Standard Deviation	Minimum	Maximum
Project Areas	1,182	767	109	7987
Surrounding Communities	285,951	903,518	2,724	8,008,278

#### *Data*

Of the variables used in this report, percent minority represents all ethnic/minority groups other than white. Percent children includes children younger than 18, while senior citizens includes those 65 and older. The renter/owner percentages represent those living in occupied housing units. Education levels were aggregated into seven categories: less than a high school diploma, high school diploma, some college, bachelor's degree, master's degree, professional degree and doctorate. Poverty status was measured using the federal government's official poverty definition.

The data were collected from the SF-3 Census 2000 sample dataset, which includes detailed population and housing data collected from a 1-in-6 sample and weighted to represent the total population. Data for the project areas were constructed using the lowest level possible from the sample data—the block group, which is an area encompassing multiple census blocks. Project areas were identified in the census data with an address

others about the use of census data for research of this kind.<sup>42</sup> To test for that possibility, we duplicated the analyses herein using block level data for overlapping variables from the 100 percent census data. Variables in this study that were common between 100 percent census and sample datasets include race, age and owner versus renter. Both descriptive and statistical results proved nearly identical, indicating smaller project areas are sufficiently represented by block groups.

#### *Analyses*

Differences between project areas and surrounding communities were measured using independent samples t-tests. Because of the substantial differences in group sizes (i.e., project area populations versus community populations), data were tested for unequal variance using Levene's test for equality of variances.<sup>43</sup> Results reveal large and statistically significant Levene values ( $p < .05$ ) for all variables measured herein. Therefore, t-test results include those where equal variance was not assumed.

## Appendix B

Table B.1 Standard Deviations for Table 1\*

	Standard Deviations	
	Project Area	Community
Minority	35%	26%
Median Income	\$7,320.64	\$5,348.81
Poverty	16%	7%
Children	10%	3%
Senior Citizens	9%	3%
Less than High School Diploma	17%	10%
High School Diploma	10%	6%
Some College	9%	5%
Bachelor's Degree	8%	6%
Master's Degree	5%	2%
Professional Degree	2%	1%
Doctorate	1%	1%
Renters	25%	12%

\*Standard deviations indicate the spread or variability of the data. The larger the standard deviations, the more spread out the scores are from the mean or average. The smaller the standard deviations, the tighter the scores are to the mean. As indicated, the project area data show more spread than the community data.

## Endnotes

- 1 Stevens, J. P. (2005). Susette Kelo, et al., petitioners v. City of New London, Connecticut, et al.; Opinion of the Court. Washington, DC: United States Supreme Court.
- 2 Bullock, S. (2004). Narrow 'public use' [Electronic Version]. *New Jersey Law Journal*, npn. Retrieved March 21, 2007; Kotlyarevskaya, O. V. (2006). Public use requirement in eminent domain cases based on slum clearance, elimination of urban blight, and economic development. *Connecticut Public Interest Law Journal*, 5.
- 3 Bullock, 2004; Gotham, K. F. (2001). City without slums: Urban renewal, public housing, and downtown revitalization in Kansas City, Missouri. *American Journal of Economics and Sociology* 60(1), 285-316.
- 4 O'Connor, S. D. (2005). Susette Kelo, et al., petitioners v. City of New London, Connecticut, et al.; Justice O'Connor dissenting. Washington, DC: United States Supreme Court, pp. 1-2.
- 5 Kolenc, V. (2006, April 9). Store owners want to stay. *El Paso Times*, p. 1E; Villalva, M. (2006, May 1). Proposed changes for downtown irk some business; Bakery owners worry about possible move. *El Paso Times*, p. 1A.
- 6 Romo, D. D. (2006). Not for distribution: Behind the demolition plan. Retrieved January 17, 2007, from [http://www.newspapertree.com/view\\_article.sstg?c=6f8049c244c746a2&mc=356aef8318be40a8](http://www.newspapertree.com/view_article.sstg?c=6f8049c244c746a2&mc=356aef8318be40a8); Caldwell, A. A. (2006, November 15). El Paso city leaders plan bigger, brighter, wealthier downtown. *Associated Press*.
- 7 Crowder, D. (2006b, May 18). Mayor to start over on redevelopment plan. *El Paso Times*, p. 1A.
- 8 Crowder, D. (2006a, October 31). Downtown plan OK'd: Mayor hopes to resolve eminent domain. *El Paso Times*; Bracamontes, R. (2006, May 18). Other cities push ahead as El Paso struggles with downtown plan; Many say City fails to share plan. *El Paso Times*, p. 1A.
- 9 Caldwell, 2006.
- 10 City of El Paso. (2006). *Tax increment reinvestment zone number 5, El Paso downtown plan*. El Paso, TX.
- 11 O'Connor, 2005, pp. 12-13.
- 12 Thomas, C. (2005). Susette Kelo, et al., petitioners v. City of New London, Connecticut, et al.; Justice Thomas dissenting. Washington, DC: United States Supreme Court, p. 17.
- 13 Thomas, 2005, p. 19.
- 14 Lees, L. (2003). The ambivalence of diversity and the politics of urban renaissance: The case of youth in downtown Portland, Maine. *International Journal of Urban and Regional Research*, 27(3), 613-634.
- 15 Boyer, M. C. (1986). *Dreaming the rational city: The myth of American city planning*. Cambridge, MA: MIT Press; Goodman, M. D., & Monti, D. J. (1999). Corporate sponsored redevelopment campaigns and the social stability of urban neighborhoods: St. Louis revisited. *Journal of Urban Affairs*, 21(1), 101-128; Gotham, 2001; Maskovsky, J. (2006). Governing the "New Hometowns": Race, power, and neighborhood participation in the new inner city. *Identities: Global Studies in Culture and Power*, 13, 73-99; Solnit, R., & Schwartzberg, S. (2000). *Hollow city: The siege of San Francisco and the crisis of American urbanism*. New York: Verso; Wilson, W. J. (1987). *The truly disadvantaged: The inner city, the underclass and public policy*. Chicago: University of Chicago Press.
- 16 Gans, H. J. (1962). *The urban villagers: Group and class in the life of Italian-Americans*. New



- York: Free Press; Gelfand, M. I. (1975). *A nation of cities: The federal government and urban America, 1933-1965*. New York: Oxford University Press; Hines, T. (1982). Housing, baseball, and creeping socialism: The battle of Chavez Ravine, Los Angeles, 1949-1959. *Journal of Urban History*, 8(12), 123-144; Hirsch, A. R. (1983). *Making the second ghetto: Race and housing in Chicago, 1940-1960*. Cambridge: Cambridge University Press.
- 17 Goetz, E. G. (2000). The politics of poverty deconcentration and housing demolition. *Journal of Urban Affairs*, 22(2), 157-174; Goodman and Monti, 1999; Gotham, 2001; Jargowsky, P. A. (1996). *Poverty and place: Ghettos, barrios, and the American city*. New York: Russell Sage Foundation; Jargowsky, P. A. (2003). *Stunning progress, hidden problems: The dramatic decline of concentrated poverty in the 1990s*. Washington, DC: Brookings Institution; Kraus, N. (2004). The significance of race in urban politics: The limitations of regime theory. *Race and Society* 7(2), 95-111; Massey, D. S., & Denton, N. (1993). *American apartheid: Segregation and the making of the underclass*. Cambridge, MA: Harvard University Press; Wilson, D. (1996). Metaphors, growth coalition discourses, and Black poverty neighborhoods in a U.S. city. *Antipode*, 28(1), 72-96.
  - 18 Mushkatel, A., & Nakhleh, K. (1978). Eminent domain: Land-use planning and the powerless in the United States and Israel. *Social Problems*, 26(2), 147-159.
  - 19 Mushkatel and Nakhleh, 1978.
  - 20 Mushkatel and Nakhleh, 1978.
  - 21 Goetz, 2000.
  - 22 Keating, L. (2000). Redeveloping public housing: Relearning urban renewal's immutable lessons. *Journal of the American Planning Association* 66(4), 384-397.
  - 23 Mollenkopf, J. H. (1983). *The contested city*. Princeton, NJ: Princeton University Press; Teaford, J. C. (1990). *The rough road to renaissance: Urban revitalization in America, 1940-1985*. Baltimore, MD: Johns Hopkins University Press; Weiss, M. A. (1980). The origins and legacy of urban renewal. In P. Clavel, J. Forester, & W. W. Goldsmith (Eds.), *Urban and Regional Planning in an Age of Austerity* (pp. 53-79). New York: Pergamon Press.
  - 24 These project areas were 1.5 standard deviations below the mean for minority, poverty and less than a high school education.
  - 25 S. B. Friedman & Company. (n. d.). Village of Lake Zurich, IL. Retrieved April 16, 2007, from <http://www.friedmanco.com/clients/zurich/lzurich.htm>.
  - 26 Tsouderos, T. (2005, March 23). Land grab unnerves residents; Lake Zurich wants growth, gets dispute. *Chicago Tribune*, p. 1; Krishnamurthy, M. (2005, June 3). Lake Zurich to get a look at redevelopment plans. *Chicago Daily Herald*, p. 3.
  - 27 Wagner, N. (2005, February 24). Condemned land? Residents hold vigil to protest Lake Zurich's legal action. *Lake Zurich Courier*.
  - 28 Davis, J. (2005, March 27). Imminent development? Crowd rallies against Lake Zurich plans to use eminent domain for Route 22 or other projects. *Chicago Daily Herald*, p. 3.
  - 29 Davis, 2005; Tsouderos, 2005.
  - 30 Ford, L. (2005, June 24). Ruling on property rights makes owners vulnerable. *Chicago Tribune*, p. C17; Kuczka, S. (2006, April 21). Eminent domain battle squashed; Last owners accept Lake Zurich's offer. *Chicago Tribune*, p. 7; Tsouderos, 2005.
  - 31 Kuczka, 2006; Krishnamurthy, M. (2006, April 22). Property owners end fight against eminent domain. *Chicago Daily Herald*, p. 1; Davis, 2005.
  - 32 Krishnamurthy, 2006.

- 33 For example, the following table includes demographic census data comparing the *Kelo* neighborhood to the United States, Connecticut, and the project areas used in this research. As indicated, the *Kelo* neighborhood housed more poor, minority, renters, and those less educated compared to the United States and Connecticut, but not so when compared to the project areas in this report.

	U.S.	Conn.	Kelo Neighborhood	Project areas in this research
Minority	30%	22%	42%	58%
Less than High School Diploma	19%	16%	23%	34%
High School Diploma Only	28%	28%	48%	28%
Some College	40%	37%	42%	22%
BA	15%	18%	6%	9%
MA	5%	9%	6%	3%
Professional Degree	1%	2%	3%	1%
Doctorate	.9%	.9%	2%	1%
Median Household Income	\$41,994	\$53,935	\$34,757	\$18,935
Poverty	12%	7%	18%	25%
Renters	33%	33%	66%	58%

- 34 Berliner, D. (2003). *Public power, private gain*. Arlington, VA: Institute for Justice; Berliner, D. (2006). *Opening the floodgates*. Arlington, VA: Institute for Justice.
- 35 The high concentration of poverty in predominantly minority neighborhoods could lead one to argue that the variables of race and income (and poverty) largely overlap. To fully conflate the variables of race and class, however, provides a misleading picture of urban political and social relations, and scholars have successfully disentangled the effects of race and class on urban residential development; Massey, D. S., & Denton, N. (1993). *American apartheid: Segregation and the making of the underclass*. Cambridge, MA: Harvard University Press. Massey, D. S., & Denton, N. A. (1987). Trends in the residential segregation of Blacks, Hispanics, and Asians: 1970-1980. *American Sociological Review*, 52(6), 802-825. Massey, D. S., & Denton, N. A. (1988). Suburbanization and segregation in U.S. metropolitan areas. *American Journal of Sociology*, 94(3), 592-626.
- 36 Bostic R. W., & Martin, R. W. (2003). Black homeowners as a gentrifying force? Neighborhood dynamics in the context of minority homeownership. *Urban Studies*, 40(12), 2427-2449.
- 37 Armstrong-Stassen, M. (1994). Coping with transition: A study of layoff survivors. *Journal of Organizational Behavior*, 15(7), 597-621; Armstrong-Stassen, M. (2005). Coping with downsizing: A comparison of executive-level and middle managers. *International Journal of Stress Management*, 12(2), 117-141; Jackson, B., Kubzansky, L. D., & Wright, R. J. (2006). Linking perceived unfairness to physical health: The perceived unfairness model. *Review of General Psychology*, 10(1), 21-40; McCubbin, M. (2001). Pathways to health, illness and well-being: From the perspective of power and control. *Journal of Community and Applied Social Psychology*, 11, 75-81.
- 38 Fullilove, M. T. (2005). *Root shock: How tearing up city neighborhoods hurts America, and what we can do about it*. Oxford: One World/Ballantine; Fullilove, M. T. (2007). *Eminent domain & African Americans*. Arlington, VA: Institute for Justice; Newman and Wyly, 2006; Powell, J. T. (2006). Student article: The psychological cost of eminent domain takings and just compensation. *Law and Psychology Review*, 30.

- 39 Thomas, 2005, p. 17.
- 40 Brigham, A. (2006, June 19). Law stops ‘reverse Robin Hoods’. *Tampa Tribune*, p. 15.
- 41 Berliner, 2003; Berliner, 2006.
- 42 Bostic and Martin, 2003.
- 43 Levene, H. (1960). Robust tests for equality of variances. In I. Olkin, S. G. Ghurye, W. Hoeffding, W. G. Madow, & H. B. Mann (Eds.), *Contributions to Probability and Statistics: Essays in Honor of Harold Hotelling* (pp. 278-292). Palo Alto, CA: Stanford University Press.



## ABOUT THE AUTHORS

**DICK M. CARPENTER II, PH.D.** Dr. Carpenter serves as the director of strategic research for the Institute for Justice. He works with IJ staff and attorneys to define, implement and manage social science research related to the Institute's mission.

As an experienced researcher, Carpenter has presented and published on a variety of topics ranging from educational policy to the dynamics of presidential elections. His work has appeared in academic journals, such as the *Journal of Special Education*, *The Forum*, *Education and Urban Society* and the *Journal of School Choice*, and practitioner publications, such as *Phi Delta Kappan* and the *American School Board Journal*. Moreover, the results of his research are used by state education officials in accountability reporting and have been quoted in newspapers such as the *Chronicle of Higher Education*, *Education Week* and the *Rocky Mountain News*.

Before working with IJ, Carpenter worked as a high school teacher, elementary school principal, public policy analyst and professor at the University of Colorado, Colorado Springs. He holds a Ph.D. from the University of Colorado.

**JOHN K. ROSS** As part of IJ's strategic research team, Ross plays a critical role producing in-house social science research on issues central to the Institute's mission. Credits at IJ include work on "Opening the Floodgates: Eminent Domain in the Post-Kelo World" and "Designing Cartels: How Industry Insiders Cut Out Competition."

Ross graduated magna cum laude from Towson University's Honors College in 2005. An international studies major, he has published on US-EU economic relations in the *Towson Journal of International Affairs*. As an intern at the Cato Institute, he worked on welfare policy analysis.



# THE INSTITUTE FOR JUSTICE

The Institute for Justice is a non-profit, public interest law firm that litigates to secure economic liberty, school choice, private property rights, freedom of speech and other vital individual liberties and to restore constitutional limits on the power of government. Founded in 1991, IJ is the nation's only libertarian public interest law firm, pursuing cutting-edge litigation in the courts of law and in the court of public opinion on behalf of individuals whose most basic rights are denied by the government. The Institute's strategic research program produces high-quality research to inform public policy debates on issues central to IJ's mission.



Institute for Justice  
901 N. Glebe Road  
Suite 900  
Arlington, VA 22203  
[www.ij.org](http://www.ij.org)

p 703.682.9320  
f 703.682.9321