

# Eminent Domain Fundamental Principles



# By Eminent Domain

**Richard A. Epstein**



## By Eminent Domain:

*The Law of Eminent Domain* Philip Nichols, 1917      *Nichols on Eminent Domain* Julius L. Sackman, Philip Nichols, Patrick J. Rohan, Melvin A. Reskin, 1964 First ed by P Nichols published in 1909 under title *The power of eminent domain*      **A Treatise on the Law of Eminent Domain in the United States** John Lewis, 1888      Eminent Domain Irene Hines, 2015

The Fifth Amendment to the U S Constitution states that government shall not take private property except for public use and with just compensation Officials from national organisations and state and local governments cited various purposes for which eminent domain can be or has been used including the building or expansion of transportation related projects the elimination and prevention of conditions that are detrimental to the physical social and economic well being of an area remediation of environmental contamination and economic development This book provides information on the purposes for and extent to which eminent domain can be and has been used the process states and select localities across the country use to acquire land including by eminent domain how the use of eminent domain has affected individuals and communities in select localities and the changes state legislatures made to laws governing the use of eminent domain from June 2005 through July 2006      *Federal Eminent Domain* , 1940      Eminent Domain Il-chung Kim, Iljoong Kim, Ho-jun Yi, Hojun Lee, Ilya Somin, 2017-04-06 A collection of essays that examines the use and abuse of eminent domain across the world      The Law of Eminent Domain in the United States Carman Fitz Randolph, 1894      **Eminent Domain in Louisiana** Melvin G. Dakin, Michael R. Klein, 1970      **Eminent Domain and Economic Growth** Joaquin Jay Gonzalez III,, Roger L. Kemp, Jonathan Rosenthal, 2018-05-12 Eminent domain is integral to a government s legal ability to take private property for a public purpose If used correctly the owners are paid the fair market value for their property few citizens are inconvenienced and everyone benefits Bad faith abuses of eminent domain typically make the front pages of news outlets and receive news coverage from television stations in cities throughout our nation To educate citizens and prevent future abuse this book exposes both the good and the bad aspects of government s ability to use their power of eminent domain to acquire private property      **Takings** Richard A. Epstein, 1985-01-01 If legal scholar Richard Epstein is right then the New Deal is wrong if not unconstitutional Epstein reaches this sweeping conclusion after making a detailed analysis of the eminent domain or takings clause of the Constitution which states that private property shall not be taken for public use without just compensation In contrast to the other guarantees in the Bill of Rights the eminent domain clause has been interpreted narrowly It has been invoked to force the government to compensate a citizen when his land is taken to build a post office but not when its value is diminished by a comprehensive zoning ordinance Epstein argues that this narrow interpretation is inconsistent with the language of the takings clause and the political theory that animates it He develops a coherent normative theory that permits us to distinguish between permissible takings for public use and impermissible ones He then examines a wide range of government regulations and taxes under a single comprehensive theory He asks four questions

What constitutes a taking of private property When is that taking justified without compensation under the police power When is a taking for public use And when is a taking compensated in cash or in kind Zoning rent control progressive and special taxes workers compensation and bankruptcy are only a few of the programs analyzed within this framework Epstein s theory casts doubt upon the established view today that the redistribution of wealth is a proper function of government Throughout the book he uses recent developments in law and economics and the theory of collective choice to find in the eminent domain clause a theory of political obligation that he claims is superior to any of its modern rivals *A Treatise on the Law of Eminent Domain in the United States* John Lewis,1909 Property Rights B. Benson,2010-06-07 In an effort to understand the reasons for and consequences of the political backlash to the U S Supreme Court decision *Kelo v New London* this book brings together a diverse group of scholars and practitioners who explore the uses and abuses of eminent domain and regulatory takings *Progress, Property and Just Compensation* ,1963 Wise John Adams reminds us that property must be secured or liberty cannot exist In our Country the power of government local state and federal must respect and protect the life liberty and property of our citizens There are however certain vital governmental functions essential to the survival the general welfare and the progress of the Nation which require land specific land A missile must have a launching site a highway a road bed a flood control and water conservation project a reservoir basin For the benefit of all the people individual convenience must occasionally yield Where progress and private property collide our Government authorized by the duly elected representatives of the people does not confiscate property as the totalitarians do It exchanges the fair cash market value of the property for the property itself Wherever possible the United States buys its land needs But it asks no owner to sell who is not satisfied either with the authority of the Government to acquire his property or the money offered for its purchase This brochure has been prepared so that every citizen may know why and how the government acquires land and understand his right to just compensation if his property is needed for public use When doubt remains or a dispute exists legal advice should be secured Robert F Kennedy Attorney General of the United States **Eminent Domain** United States Government Accountability Office,2017-09-15 In the Transportation Treasury Housing and Urban Development the Judiciary the District of Columbia and Independent Agencies Appropriations Act 2006 Congress mandated that GAO conduct a nationwide study on the use of eminent domain by state and local governments This report provides information on 1 the purposes for and extent to which eminent domain can be and has been used 2 the process states and select localities across the country use to acquire land including by eminent domain 3 how the use of eminent domain has affected individuals and communities in select localities and 4 the changes state legislatures made to laws governing the use of eminent domain from June 2005 through July 2006 To address these objectives GAO reviewed relevant provisions in federal state and local laws conducted site visits to various redevelopment projects where eminent domain was used and interviewed multiple national associations of local and state government officials and planning professionals national public interest groups and national

property rights groups to gain their perspectives on the use of eminent domain. **Evicted!** David Schultz, 2009-12-22 *Evicted* is a practical and critical look at the vulnerability of Americans' property rights to eminent domain abuse since the Supreme Court's 2005 Kelo decision. The 2005 Supreme Court decision *Kelo v. City of New London* which upheld the taking of an individual's home by local government for the sake of private development unleashed a firestorm of controversy. The backlash against eminent domain cuts across partisan ideological and racial lines with 4 out of 5 Americans opposing Kelo. Critics of Kelo claim that it represents a radical departure in the law putting every homeowner in jeopardy of dispossession by government at the service of corporate interests. But are property rights and eminent domain truly in mortal conflict? Written for general readers, property owners and local government officials seeking to understand the implications of Kelo for eminent domain and property law, *Evicted* cuts through all the hype and hysteria surrounding Kelo and argues that the alleged wave of eminent domain abuse is mostly a myth. *Evicted* describes what property rights are, why the law protects them and how eminent domain really works. Schultz shows that Kelo did not make new law but only broadened Supreme Court precedents and he refutes claims that Kelo has opened the way to widespread eminent domain abuse. Nevertheless, the author identifies certain legislative changes that are needed at the local, state and national levels to better protect individual property owners when corporate thugs and corrupt government officials occasionally gang up against them. [A Treatise Upon the Law of Eminent Domain](#)

Henry Edmund Mills, 1879 **LAW OF EMINENT DOMAIN**, PHILIP. NICHOLS, 2018 **Eminent Domain** Cynthia Fraser, William Scheiderich, 2011 While eminent domain traditionally was used to acquire property for roads, waterways, defense installations, government and public buildings and the interstate highway system, it has recently been a favored tool in developing urban areas, creating shopping malls and building big box retail stores. This is a practical guide for lawyers applying modern land use doctrine in takings cases. **Eminent Domain** Richard G. Rypinski, 1998 **Property Rights and Eminent Domain** Ellen Frankel Paul, 2017-09-29 In a country built on the institution of private property, property owner rights have been under attack. By arguing that private property is a fundamental liberty whose protection deserves the highest priority, Ellen Frankel Paul challenges one of the dominant trends of the past half century: the erosion of property rights via zoning and land use restrictions carried on by government exercising its police power or promoting the public interest. Paul begins by examining the arguments of environmentalists in support of land use legislation and explores a few particularly troubling examples of the exercise of eminent domain and police powers. She traces the philosophical arguments for the two powers as well as their tortuous judicial history, the meaning of property rights and investigates how previous thinkers have defended these rights in detail. Paul suggests a more adequate defense for them. In the concluding portion of the book, the very legitimacy of eminent domain is questioned and the author offers recommendations for its reform. This analysis is wide in scope and makes creative use of historical, legal, economic and philosophic methodologies. It not only gives an account of the present power regulations on land but also provides an exhaustive history

of the development of the law in these two areas and of the philosophical ideas of the thinkers who helped shape this process This book is distinctive because it places a theory of the just acquisition of property at the heart of the answer to the question of the extent to which governments can rightfully exercise the powers of eminent domain and police Amazingly in a country built on the institution of private property the right to property in land has been under increasing assault and has seldom been defended Paul s book by arguing that private property is a fundamental liberty whose protection deserves the highest priority is a major step toward filling the void Robert Hessen Stanford University

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