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Eminent Domain

National Conference: A Retrospective on *Kelo*

April 19-20, 2007 • Flamingo • Las Vegas

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Featuring Speakers From:

- Archibald & Associates
 - Bloustein School of Planning and Public Policy
 - Greenfield Advisors
 - Institute for Justice
 - Levick Strategic Communications
 - New York City Law Department
 - Precision Simulations
 - City of Riviera Beach
 - Utah Attorney General's Office
 - Utah Department of Commerce
 - William C. Harvey & Associates
- ... and some of the nation's top eminent domain practitioners!

Dear Colleague:

Since 1979, the Supreme Court of the United States has rendered 33 opinions in cases involving the 5th Amendment's "takings" clause. Few areas of the law have triggered such intense debate among legal scholars, jurists, property owners, corporate interests and governmental regulators, and have been the subject of such intense scrutiny at the highest levels of our state and federal courts as the law of eminent domain and, specifically, the Court's 2005 *Kelo* decision.

Kelo has resonated from the board room, to the courtroom to state houses across the country. The November 2006 elections saw *Kelo*-related legislative initiatives pass in some states and go down in defeat in others. Despite this intense public attention and focus by the Supreme Court, state and federal courts, and the legislative branch, very few bright line rules have emerged to help guide landowners, developers and state and federal governments through the labyrinth that has emerged as the law of eminent domain. What does all of this mean? What has been the impact of *Kelo*?

Join us on April 19-20 in Las Vegas to participate in a dialogue with some of the nation's leading scholars and most experienced practitioners from both the public and private sectors at the state and federal levels. Discuss and share their perspectives and experiences in the area of eminent domain as we assess *Kelo's* impact.

From updates on recent Supreme Court decisions, to legislative initiatives and litigation strategy, this Conference will give you the tools that you need to understand the law of eminent domain.



Lewis S. Wiener, Esq.
Program Co-Chair



Bruce M. Harris, Esq.
Program Co-Chair



Visit our website at cle.com for a complete listing of MCLE requirements in all states. You will also find a schedule of our upcoming conferences and a listing of available homestudy courses.



Lewis S. Wiener, Esq., Program Co-Chair
Sutherland, Asbill & Brennan
Washington, DC



Bruce M. Harris, Esq., Program Co-Chair
Harris, Harris, Bauerle & Sharma
Orlando, FL

Register Online at www.cle.com or Call (800) 873-7130
Conference Schedule and Speaker Biographies Inside



schedule

Eminent Domain

Thursday, April 19

Friday, April 20

8:30 Registration and Continental Breakfast

9:00 **Welcome and Introduction**

Overview of Day One

Lewis S. Wiener, Esq., Program Co-Chair

Sutherland, Asbill & Brennan, Washington, DC

Bruce M. Harris, Esq., Program Co-Chair

Harris, Harris, Bauerle & Sharma, Orlando, FL

9:15 **Fifth Amendment Takings**

History and Context—How Did We Get to Kelo?

Lewis S. Wiener, Esq., Program Co-Chair

9:45 **Who Was the Real Winner in Kelo?**

Practical Implications of the Aftermath

Randy S. Hunter, Esq., Assistant Attorney General

State Agency Counsel Division

Utah Attorney General's Office, Salt Lake City, UT

10:30 Morning Break

10:45 **Legislative Survey—A Panel Presentation**

Comparison and Contrast of State Legislative Actions

Dana Berliner, Esq., Senior Attorney

Institute for Justice, Washington, DC

Steven P. Hollman, Esq.

Hogan & Hartson, Washington, DC

Edward J. Sullivan, Esq.

Garvey Schubert Barer, Portland, OR

12:15 Lunch Break

1:30 **Litigation Trends**

The Impact of Kelo on Cases Across the Country

Alan T. Ackerman, Esq.

Ackerman Ackerman & Dynkowski, Troy, MI

Lisa Bova-Hiatt, Esq., Deputy Chief

Tax & Bankruptcy Litigation Division

New York City Law Department, New York, NY

Darius W. Dynkowski, Esq.

Ackerman Ackerman & Dynkowski, Troy, MI

Edward D. Vassallo, Jr., Esq.

Law Offices of Eddie Vassallo, Dallas, TX

Dana Berliner, Esq., Senior Attorney

Bruce M. Harris, Esq., Program Co-Chair

3:15 Afternoon Break

3:30 **The Media Response to Kelo**

Why the Media Responded the Way It Did; Using the Media to Build Your Case; Effect of Kelo on the Polls

Richard S. Levick, Esq., President and CEO

Levick Strategic Communications, Washington, DC

4:15 **Resolving Eminent Domain Disputes Without a Courtroom**

Evolving Attitudes of Juries; Parties' Expectations

Craig M. Call, Esq., Property Rights Ombudsman

Utah Department of Commerce, Salt Lake City, UT

5:00 Adjourn

8:30 Continental Breakfast

9:00 **Welcome Back**

Overview of Day Two

Lewis S. Wiener, Esq., Program Co-Chair

Bruce M. Harris, Esq., Program Co-Chair

9:15 **The Economics of Kelo and Redevelopment**

Impacts on Municipalities

Robert W. Burchell, PhD, Distinguished Professor

Bloustein School of Planning/Public Policy, Rutgers State University

New Brunswick, NJ

10:00 Morning Break

10:15 **How Kelo Is Affecting Appraisal Methodologies**

How Are Property Owners Being Compensated After Kelo?

Are They Being Compensated Fairly?

James T. Archibald, MAI

Archibald & Associates, Houston, TX

William C. Harvey, II, CCIM, MAI

William C. Harvey & Associates, Great Falls, VA

David B. Snyder, Esq.

Fox Rothschild, Philadelphia, PA

11:45 **Featured Presentation: The Effect of Legislation on Redevelopment**

Harbor Village Redevelopment—A Case Study

Michael D. Brown, Mayor

Riviera Beach, FL

12:30 Lunch Break

1:45 **Special Post-Kelo Valuation Issues**

Impact of Litigation on the Property's Market Value;

Consistency in Valuation

John A. Kilpatrick, PhD, MRICS, President

Greenfield Advisors, Seattle, WA

2:30 **Kelo in Perspective**

Impact on Future Developments

H. Dixon Montague, Esq.

Vinson & Elkins, Houston, TX

3:15 Afternoon Break

3:30 **Use of Demonstratives in Post-Kelo Cases**

New Technologies; Impacting the Jury

Craig T. Fries, President

Precision Simulations, Grass Valley, CA

4:15 **Ethics**

Two Approaches to Mediation in the Eminent Domain

Context—Mediator and Client Perspectives

Robert V. Kerrick, Esq.

Gallagher & Kennedy, Phoenix

5:15 Evaluations and Adjourn

instructors

Eminent Domain

meet your

Program Co-Chairs

Bruce M. Harris has handled hundreds of eminent domain cases for property owners and condemning authorities. He frequently lectures on eminent domain issues and is an adjunct professor at the University of Florida College of Law.

Lewis S. Wiener focuses on eminent domain, inverse condemnation, and complex litigation. He was formerly with the U.S. Department of Justice, where he was twice recognized by the Attorney General for special achievement.

Featured Presenter

Michael D. Brown has served his city since 1999 and wants to enhance the quality of life through economic growth and new development. He is committed to the completion of the Harbor Village Redevelopment Project and envisions that it will increase property values and entice new business.

Alan T. Ackerman has over 25 years' experience handling hundreds of condemnation trials and appeals. A leader in his field, he is a frequent author and lecturer on eminent domain issues.

James T. Archibald is a state-certified appraiser with over 20 years of experience. He handles development, brokerage and appraisal, which allows for comprehensive valuations.

Dana Berliner litigates economic liberty, property rights, and other constitutional cases and has been with her institute since 1994. She was co-counsel to the homeowners in *Kelo v. New London*.

Lisa Bova-Hiatt represents her city in the acquisition of property by eminent domain. She advises agencies, coordinates acquisitions, and manages attorneys and support staff regarding procedure, valuation and title clearance.

Robert W. Burchell is the Co-Director of the Center for Urban Policy Research, where his research focuses on sprawl and smart growth, land use regulation, and fiscal and development impact analysis. He has headed numerous "costs of sprawl" studies.

Craig M. Call is an eminent domain mediator, attorney, real estate broker and general contractor. A former legislator and Provo City Councilman, he recently authored a book entitled *The Utah Citizen's Guide to Land Use Regulation*.

Darius W. Dynkowski and his firm represent property owners and business clients in eminent domain and condemnation proceedings, including government valuations, complete or partial real estate takings, just compensation and land acquisition.

Craig T. Fries has worked in forensic and applied sciences for 10 years. He has worked on pioneering advances in basic and applied vision research, human factors technology and forensic visualization.

William C. Harvey, II, has 29 years of real estate appraisal, brokerage and consulting experience. He chairs the Appraisal Institute's Valuation in the Government Sector Shared Interest Group.

Steven P. Hollman focuses on complex commercial litigation in federal courts and before administrative tribunals, where he handles matters involving issues of constitutional law.

Randy S. Hunter handles environmental, contract and inverse and direct condemnation litigation at both trial and appellate levels. The Utah Department of Transportation is his major client agency.

Robert V. Kerrick practices in the area of real estate valuation litigation. He represents landowners, cities and developers, and he is a past Chairman of the Phoenix Planning Commission.

John A. Kilpatrick has over 25 years' experience in real estate and business development, statistical and financial analysis, consulting, teaching and corporate finance. He is a Certified General Appraiser in numerous states.

Richard S. Levick and his firm have managed media strategies for many of the world's highest-profile matters, representing half the 100 largest law firms in America. In 2006, the Holmes Report named his firm "Crisis PR Agency of the Year."

H. Dixon Montague has represented clients for the past 27 years in condemnation, inverse condemnation and regulatory takings cases against local, state and federal authorities.

David B. Snyder co-chairs his firm's Condemnation Practice Group and has represented condemning authorities and property owners across the country. He is a frequent author and media guest on eminent domain issues.

Edward J. Sullivan concentrates on planning, administrative and municipal law. He chairs the American Bar Association's State and Local Government Law Section.

Edward D. Vassallo, Jr., handles commercial litigation, real estate, eminent domain, inverse condemnation, condemnation, zoning, and land use matters. He is a frequent speaker on eminent domain issues.

conference information

Continuing Education Credit

MCLE: This course qualifies for a maximum of 12 hours of credit, including one hour of ethics, by the State of Nevada.

Planners: The course meets the requirements for up to 12 hours of AICP/CPDP credit.

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Registration

Advance registration is recommended, and you are encouraged to mail in your registration early. Or simply call in your registration or home study order to (800) 873-7130, fax the registration form to (303) 321-6320, email your registration to registrar@cle.com, or register online at www.cle.com. Full payment is due at time of registration. Walk-in registrations will be subject to space availability. Please call **CLE INTERNATIONAL** at (800) 873-7130 if you require any special accommodations.

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About CLE INTERNATIONAL

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Course Materials

Each registrant will receive a set of materials prepared by the speakers especially for this Conference, which will serve as a valuable future reference. The course materials alone are available for \$95 plus \$10 shipping and handling.

Home Study

CLE INTERNATIONAL also offers a complete audio transcript of the Conference (including all course materials) for \$695 plus \$10 shipping and handling. This package may qualify for home study credit.

Cancellation

Full tuition refunds (less a \$50 administrative charge) will be given only if notice of cancellation is received by 5:00 p.m. MST on the Friday preceding the Conference. Substitutions may be made at any time.

Sponsorship

Sponsorship and exhibition opportunities are still available. For more information, please contact Shauna Kraczek at (800) 873-7130 or shauna@cle.com.

CLE International Program Attorney:
Caroline Kert, caroline@cle.com.



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National Conference: A Retrospective on Kelo

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Eminent Domain

First Ever National Focus on the Effects of Kelo

April 19-20, 2007 • Flamingo • Las Vegas



Take lush greenery, swaying palms, cascading waterfalls, blue lagoons and a menagerie of live flamingos and penguins and what do you have? Put it all amidst a glittering pink façade and it's the fabulous Flamingo, a 15-acre tropical paradise in the heart of the famed Las Vegas Strip!

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