**What is Public Use?**

**Category**

[Fifth Amendment](http://constitutioncenter.org/education/educators/learning-resources/lesson-plans/what-is-public-use)

**Grade Level**

[High School](http://constitutioncenter.org/education/educators/learning-resources/lesson-plans/what-is-public-use), [Middle School](http://constitutioncenter.org/education/educators/learning-resources/lesson-plans/what-is-public-use)

**SOURCE**

Lesson provided courtesy of [The Bill of Rights Institute](http://billofrightsinstitute.org/).

**OVERVIEW**

The United States Supreme Court is back in session, and the justices have decided to take some important cases this term. One such case involves the city of New London Connecticut and the residents of Fort Trumbull. Susette Kelo has filed a suit against the city after New London decided to clear her home â€“ and several others' homes â€“ in order to build commercial buildings. The city states that the tax revenue these businesses will generate will benefit private citizens, but the Fort Trumbull residents say that the taking violates their 5th Amendment rights because the land will not be for "public use."

**MATERIALS**

* ["Supreme Court takes eminent domain case"](http://www.usatoday.com/news/nation/2004-09-28-justices-property_x.htm) USA Today. September 28, 2004.
* ["Supreme Court set to consider hearings in key cases"](http://www.chron.com/news/nation-world/article/Supreme-Court-set-to-consider-hearings-in-key-1636842.php) Houston Chronicle. September 24, 2004.
* ["Supreme Court could have last word on stadium"](http://forum.dallasmetropolis.com/archive/index.php/t-609-p-29.html) Dallas Fort Worth Urban Forum (originally from Fort Worth Star-Telegram). September 28, 2004.
* ["District begins land quest for stadium site on Anacostia"](http://www.washingtontimes.com/news/2004/sep/30/20040930-100341-1601r/) Washington Times. October 1, 2004.

**EVALUATION AND ASSESSMENT**

What businesses does the city plan to build in place of the homes?

* A Pfizer research facility or offices
* A health club
* Condominiums
* A riverfront hotel
* A Coast Guard museum

What reasons does the city of New London give for wanting to condemn the houses?

* Razing the houses would serve a public purpose
* The city wants the tax revenue of the buildings that would replace the houses
* The new buildings would attract tourists to New London
* The new development would create jobs

Why do the residents oppose the taking of homes in Fort Trumbull?

* They believe their land is being taken for private use
* They believe it is unconstitutional to take their land for private use
* Any statement from the video link can be answered here
* They don't want to give up their land just so that tax revenue can be generated

Why do you think the Supreme Court decided to hear this case?

* Many local governments are struggling with this same issue (See articles)
* The words "public use" mean different things to different people
* To prevent future lawsuits over takings
* To interpret the Constitution for local and state governments

What are some other possible situations is which the government might take property from private citizens for public use?

* Road improvements
* Blighted or run down portions of a city taken for renovation
* Land taken to build government buildings
* Land taken to build vital city infrastructure (i.e. airports or train systems)

Read the 5th Amendment. What do you think the writers of the Bill of Rights meant by "nor shall private property be taken for public use, without just compensation"?

* In order to take private property, the government must provide a fair compensation (i.e. money or goods) for the land.
* Any private property taken must be taken for the purpose of helping the public
* Private property can only be taken if it will benefit the residents of an area in any way
* If private property is taken, it can only be taken for public use/ not for private ownership

**FOLLOW UP**

Present the following scenario to the class:

In the town of Cityville, WI, population 50,000, about 50% of the residents live below the poverty line. Unemployment has been high and wages low as business after business has left the area. Last month, however, residents were excited to learn that the Professional Football League (PFL) has plans to begin a football team in the area. The team will bring jobs as well as badly needed revenue to the city for years to come. The only condition: the city must agree to build a new stadium and parking lot. Most citizens of Cityville support the idea, but a group of about 100 property owners who live in the condominiums the city will need to tear down in order to build the stadium are unwilling to sell their property to the city.

* Divide students into three groups: property owners, PFL, and government.
* Have the first two groups present their arguments for or against the taking of property to the government group, basing their arguments on the 5 th Amendment.
* Ask the government group to listen to the other two groups' arguments, deliberate, and then explain their decision whether or not to take the property.

Have students research the following Supreme Court cases that directly involve the 5th Amendment, and present their findings to the class in an oral report.

* [Lucas v. South Carolina Coastal Commission (1992)](http://www.law.cornell.edu/supct/html/91-453.ZS.html)
* [Dolan v. City of Tigard (1994)](http://www.law.cornell.edu/supct/html/93-518.ZO.html)
* [United States v. Cors (1949)](http://supreme.justia.com/cases/federal/us/337/325/)
* [Loretto v. Teleprompter Manhattan (1982)](http://supreme.justia.com/cases/federal/us/458/419/)

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