

# Eminent Domain

## What Is It?

Eminent domain is the legal taking of private property for public use by the government or a government-authorized entity. This power is innate to government sovereignty and is identified and limited in the Fifth Amendment of the U.S. Constitution, which states that “private property [shall not] be taken for public use, without just compensation.”



## What Is Its Impact?

Eminent domain can have a significant impact on landowners—and land—as it allows authorities to permanently take property for public use projects such as infrastructure development, energy purposes, or urban planning.



## What Does It Cost?

The party *taking* land must provide “just compensation” to the property owner. This generally means *fair market value*—the price that a willing buyer would pay and a willing seller would accept for a property on an open, competitive market. Because eminent domain is often challenged, legal fees and project delays often significantly inflate the overall economic costs of the process.



## Space



There is generally no limit to the area of land that can be condemned. Authorities with the power of eminent domain can exercise it - where appropriate and approved - in virtually any location and on any scale that is deemed reasonable, for the public use or benefit, provided just compensation is made for the full amount of land or property condemned.

## Point

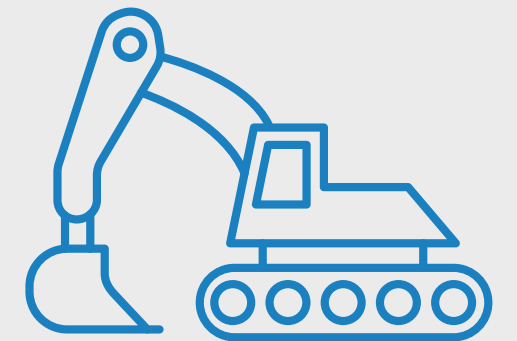
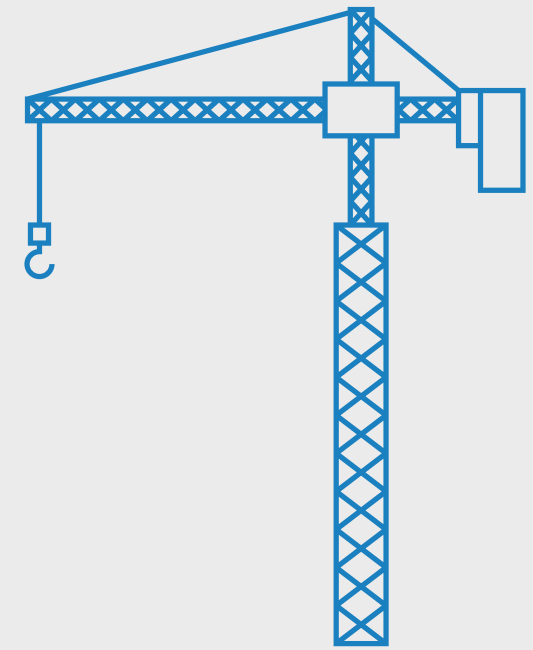
- Eminent domain is an inherent sovereign power of government and requires no law or constitutional provision
- Eminent domain is used for critical public infrastructure that benefit the nation and communities, some of which could not proceed without a taking
- Eminent domain policy has trended towards aiding landowners in legal proceedings
- Some states have statutes to ensure condemning authorities are using land effectively

## Counterpoint

- ↔ ◦ Laws and policies establish limits, restrictions, or procedures for government exercise of eminent domain
- ↔ ◦ Eminent domain can be emotionally distressing and costly and leads to property owners losing their land, homes, or businesses. Alternative projects or routes may or may not be possible to avoid takings
- ↔ ◦ Condemning authorities are often viewed with a critical and negative eye by communities they affect
- ↔ ◦ Eminent domain can be misused to benefit private developers or proposed projects fail to materialize

## How Does It Work?

1. The condemning authority, whether it be the government or a private entity, identifies the need for a property for public use.
2. The landowner is notified of the intent to condemn the property and made an offer of “just compensation.”
3. Landowners then have the option to accept the compensation, negotiate a better deal, or challenge the condemning authority through legal means.
4. If the property is condemned, it is acquired for the specified public use.
5. If the property is not used within a certain period of time, the former property owner may have the opportunity to purchase the land back.



## Did You Know?

During World War II, the United States government oversaw the condemnation of over 20 million acres of land. This land was used for airports, naval stations, wartime manufacturing, and national defense.

In 2005, the Supreme Court of the United States ruled that eminent domain may be used for private economic development in *Kelo v. City of New London*.

## What's Next?

The future of eminent domain hinges on striking a balance between the need for land for infrastructure and public projects and the protection of individual property owner rights. Continued development of policies and ongoing public discourse will play a crucial role in shaping the future of eminent domain in the United States.