

## Why Property Rights Matter

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Private property rights are the foundation of a free society and a capitalist economic system. Yet government officials, activists, and others often say that unrestricted private property hurts the common good by frustrating economic redevelopment plans and environmental protections.

In a moving and eloquent new book, attorney Timothy Sandefur defends property rights against those critics by exposing the human cost of eminent domain abuse, land-use restrictions, and other measures. He tells the stories of people like Susette Kelo, who renovated her dream house only to have it seized by the government, and Dorothy English, whose plan to leave her land to her children was frustrated by bureaucrats.

*Cornerstone of Liberty: Property Rights in 21<sup>st</sup>-Century America* is the first book on property rights published since the Supreme Court ruled in the 2005 case *Kelo v. New London* in favor of the state's power to seize homes and businesses and transfer the land to private developers.

Sandefur defends the sanctity of private property as both an individual right and a social good. Property is not only a moral right, Sandefur explains; it is an important tool for channeling self-interest into social cooperation, which leads to stability and prosperity. He argues that to “imagine” a world with no possessions, as John Lennon sang, is to conceive of a place full of conflict and confusion.

Sandefur traces the notion of private property as an individual right from thinkers such as John Locke to the American Founders and the U.S. Constitution. The writings of Madison, Jefferson, Adams, and others show an understanding of private property as a natural right that follows from each person's self-ownership and is “essential to a civil, safe society.” The Founders enshrined property rights in the Bill of Rights, which was later improved by post-Civil War amendments that ended slavery and protected property through the Due Process clause of the Fourteenth Amendment. But the Progressive Era resurrected the theory of English jurist William Blackstone that the state has “absolute despotic power” and rights such as property only exist at the behest of the state.

Recent decisions expanding the abuse of eminent domain, of which *Kelo* is the most prominent, allows governments to condemn homes or entire neighborhoods as “blighted” in order to benefit not the public, but powerful and connected interests. Sandefur also analyzes the seizure of private property by law enforcement officials under asset forfeiture laws and takings that masquerade as well-meaning environmental regulations. Most of the legislation that states rushed to pass following the public outcry over *Kelo* does little to prevent future abuses, but Sandefur identifies several steps for reform. States should amend their constitutions to explicitly rule out takings from one private entity to another. States should also adopt specific and narrow definitions of “blight” to keep officials from using the term to take any property that suits them. The legal system should be reformed to make it easier for property owners to protest takings in court. Finally, compensation should be given to property owners subject to land-use restrictions. Sandefur's book makes a passionate argument that the idea of the inviolability of private property is not a relic from a bygone era but a tradition worth preserving. He sees it as a

fundamental right that must be vigilantly defended by forcing state and local governments to follow the rule of law rather than the arbitrary whims of politicians and bureaucrats.

*[AOA's note: It should also be recognized that "taking from one private party and giving to another" and "land use restriction" fit within the description of rent control. If the state and/or city want to control rents, compensation should also be given to property owners!]*