



Eminent Domain

What are the effects and uses of eminent domain?

States and federal government use eminent domain to acquire land for redevelopment projects.

The federal or state government can seize private property via eminent domain if the land will be for **public use** and landowners receive **just compensation**. The act of acquiring land under eminent domain is referred to as **condemnation**.

The power of eminent domain is granted by the Fifth Amendment of the U.S. Constitution and is extended to states by the [Due Process Clause](#) in the Fourteenth Amendment ([GAO, 2006](#)).

- States will typically authorize certain entities (e.g., public service commissions) to determine who can use eminent domain. States may further grant authority to local governments or authorize private companies to use eminent domain.

Eminent domain is often used to assemble large areas of land for redevelopment projects. Some examples of eminent domain use cases include:

- Building transportation infrastructure
- Building energy infrastructure
- Constructing state and municipal facilities
- Redeveloping parts of cities experiencing urban decay
- Remediating environmental contamination
- Promoting economic development

Research Highlights

Eminent domain allows the state or federal government to claim private property for public use as long as there is just compensation. However, definitions of public use can vary based on the legal jurisdiction.

There is limited and inconsistent research on the economic effects of eminent domain.

- Eminent domain may be associated with an increase in disposable income for residents in a state.
- For highly-populated counties specifically, restrictions on the use of eminent domain have not been associated with any negative effects.

The federal definition of public use for eminent domain is broad ([Carpenter, 2010](#)). As a result, stricter definitions for public use are deferred to the states ([Deborah, 2006](#)).

States typically interpret public use to justify eminent domain in two ways:

- **Use by the public** requires the public to directly benefit from the condemnation, such as for highways or parks.
- **Use for public advantage** is justified by anticipated social and economic benefits, including use by private companies, such as for the construction of new buildings.

In general, eminent domain generates benefits and costs for different groups, and it is difficult to objectively measure these in order to identify their overall impact. Additionally, it is not clear what portion of the public must benefit from the use of eminent domain to justify public use or advantage.

Courts do not use a specific formula to calculate how much of the public must benefit, and they may not require that the entire community or even a considerable portion of it enjoys the public benefit, as long as there are benefits such as a decrease in unemployment, increase in the tax base, or revitalization of local industries (Nader, 2004; Coleman, 2019).

Energy Transmission & Infrastructure: Energy and utility companies often use eminent domain to build out infrastructure (e.g., renewable energy infrastructure). A state's public utility commission can determine that certain values satisfy public use, such as increasing the reliability, affordability, or sustainability of the power grid.

In Missouri, land cannot be condemned purely for economic development purposes that will solely increase the tax base, tax revenues, employment, or general economic health (RSMo 523.271).

- Because of this, using eminent domain for oil, gas, or wind energy transmission would likely only be allowed if part of the resources are transported to the state.

The economic effects of eminent domain are uncertain.

Effects on Land Value: In areas where courts tend to favor government use of eminent domain, housing prices increased for at least four years after the legal precedent was set (Chen, 2020). At the same time, there is concern by property rights groups that property is being undervalued when condemned for eminent domain (GAO, 2006).

Effects on Economic Development: There is limited research on how eminent domain affects economic development.

- The use of eminent domain may be associated with increased per-capita disposable income in a state (Lanza, 2013).
- For highly-populated counties specifically, other research indicates that states who restrict eminent domain experience no adverse effects on state employment, gross state product, or county employment and income (Carpenter, 2010; Byrne, 2016).

Effects on Minority & Low Socioeconomic Groups:

Cases where economic development was justified as public use for eminent domain disproportionately condemn land from the elderly, as well as racial minority and low-income neighborhoods (Bailey, 2012).

- Between 1949 and 1973, Black people were five times more likely to be displaced than would be predicted based on their relative population (Bailey, 2012).

Residents of low-income neighborhoods often rely on their communities for day-to-day needs such as child care. When a household is displaced because their land is condemned through eminent domain, they can lose access to their community support network (GAO, 2006).

Missouri HB 2005 updated eminent domain requirements.

HB 2005 passed in 2022 and requires that:

- Just compensation for electric transmission projects is paid at 150% of fair market value.
- Electricity carried by transmission lines is delivered to Missouri proportional to the number of miles it travels in the state.
- Developers obtain the full financial commitments for their project within seven years of the use of eminent domain.