

# 99 cent v. lancaster redevelopment



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The 2001 court case of 99 Cent Only Stores v. Lancaster Redevelopment Agency involved 99 Cent Only Stores attempting to block Lancaster from acquiring their property. Lancaster wanted to obtain the property in order to allow Costco to expand rather than follow through with their threat of leaving Lancaster. The loss of Costco would result in the loss of over \$400, 000 generated from sales tax each year. The 99 Cent Only store only generated about \$40, 000. Lancaster tried to use the power of eminent domain to obtain the property of the 99 Cent Only store but was sued - and lost.

Similar to the decision of the Supreme Court, I would have ruled in favor of 99 Cent Only Stores. While laws would have allowed Lancaster Redevelopment Agency to remove and redevelop a slummy, blighted area, the 99 Cent Only Store was not found to be blighted. " Under Health & Safety Code 33030, a blighted area is one which is 80% urbanized, and a physical and economical liability which cannot be reversed or alleviated without redevelopment." (Fergusson, 2005). The Fifth Amendment protects property owners from having their property taken by the government unless it is for public use. It seems to me that if Lancaster seized the property from 99 Cent Only Stores, it would be for Costco's use (so it could expand) and for Lancaster's own use (so it could obtain greater revenue from sales tax).

However, if brought to court today, after the decision made by the Supreme Court in 2005 regarding the case of Kelo v. City of New London, the result of the 99 Cent Only case would quite likely be different. The Kelo v. City of New London case was similar to the 99 Cent Only Stores v. Lancaster Redevelopment Agency case in that New London was trying to obtain property in order to help a profitable company expand. (Fergusson, 2005).

What made this case different, though, was the way that the City of New

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London manipulated the Fifth Amendment.

By proposing a development plan, the City of New London brought to attention all of the benefits that would be reaped by the general population if there was economic growth. (Fergusson, 2005). In other words, New London argued that their seizing of property was for public use. Because the Fifth Amendment does allow the claiming of private property by the government for public use, the Supreme Court found New London's development plan (and seizure of property) acceptable.

Similarly, it could easily be argued that the \$400, 000 in sales tax generated from Costco (as opposed to only \$40, 000 from the 99 Cent Only store if Costco left) is a matter of public use and advantage. The general population of Lancaster would most certainly benefit from the promised advantages of economic growth. As long as the Lancaster Redevelopment Agency proposed a development plan, like the city of New London did, Lancaster would be allowed to use eminent domain to take control of the 99 Cent Only store's property. (Fergusson, 2005). Although previously "tripped up" by the U. S. Constitution, the city of Lancaster would now be able to use the Constitution to its advantage.

It is fascinating that the subjective nature of laws often allows individuals to find loopholes that will allow them to use laws advantageously while other individuals with similar cases may not have been able to do previously.

Additionally, it is important to note that the results of the Kelo case may allow certain states to abuse their eminent domain privileges. (Fergusson, 2005). It is difficult to determine whether a state truly cares about the public and the benefits of economic development, or whether a state merely has its own interests (money) in mind.

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Sources Cited:

Fergusson, C. (2005). Kelo in California: The Property Rights Counterrevolution. The Claremont Institute: For the Study of Statesmanship and Political Philosophy. Retrieved online on May 6, 2008 from <http://www.claremont.org/projects/pageid.2030/default.asp>.