Texas Public POLICY FOUNDATION

AN EXAMINATION OF EMINENT DOMAIN IN TEXAS

WRITTEN BY **John Bonura,** Policy Analyst, Taxpayer Protection Project
NOVEMBER 2024

KEY POINTS

- With the *Kelo* decision in 2005, eminent domain authority has expanded to include condemning land for economic development.
- After decisions like *Denbury* and *Miles*, private entities can exercise eminent domain authority.
- In response to these decisions, Texas established the Landowner's Bill of Rights to ensure property owners are informed of their rights regarding condemnation and have the same information as condemning entities.

EXECUTIVE SUMMARY

Over the last few decades, the power of the state to take private land for public use has expanded greatly. The standard for what constitutes a "public use" has been lowered such that "just and adequate compensation" is often all that the government can assume control of private property.In the 2005 *Kelo v. City of New London* opinion, the U.S. Supreme Court found that public use could be interpreted more broadly as "public purpose" (*Kelo v. City of New London*, 2005). The standard for just and adequate compensation is tied to fair market value, but there has been some academic discussion on whether the sentimental or subjective value of property should also be considered. To protect property rights, the standard for a government taking via eminent domain must be examined with more scrutiny, and the vagaries clearly defined to avoid government overstep.

The purpose of this paper is to explore the current state of eminent domain and to suggest reforms to the eminent domain process. This research examines statute, case law, and studies of recent takings, with a focus on the impact upon property owners. The analysis finds that issues arise with overly broad definitions of "public use," with disagreements over what is considered "just and adequate compensation," and with a lack of transparency regarding the takings process. Recommendations include defining what could be considered "public use" more narrowly and including statute language that increases transparency and decreases the information deficit that exists between entities with eminent domain authority and property owners.

continued

INTRODUCTION

The sanctity of private property rights is the cornerstone of Western civilization. Protecting these rights is one of the main reasons that people form governments. According to John Locke, "The great and chief end, therefore, of men uniting into commonwealths, and putting themselves under government, is the preservation of their property" (Locke, 1689, p. 159). This means protecting the right to the exclusive use of private property is the primary responsibility of American government.

However, in limited and defined instances, private property rights may be superseded by a legitimate public interest through the process of eminent domain. In these cases, whereby the government deem it necessary to allow an entity to appropriate private property for public purposes by exercising eminent domain authority, then proper steps must be taken to demonstrate that the taking is for public use and the person from whom the property is seized must be made whole .

Eminent domain is the right of a state or its assigns to take private property for public uses qualified in the United States Constitution by the obligation to make "just and adequate compensation" (Kratovil & Harrison, 1954). Instead of being expressly granted as a power to a government, it is seen as a tacit agreement that allows for public projects to be completed, regardless of the "recalcitrance of persons who happen to own property in the path of the improvement" (Kratovil & Harrison, 1954). However, what is considered a public use has been expanded to include anything that could conceivably benefit the public, including taking from a private owner and granting it to another private entity if there was even the smallest possibility that the project would benefit the public by bringing jobs or attracting commerce. For example, if a city believes that a sports arena would economically benefit an area, the city has the authority to condemn the property that is on the land where the arena is planned to be built—even though the construction would be done by private builders, the structure would belong to a private entity, and the teams playing there or entertainers that would perform there would be the primary beneficiaries.

Because the Texas Constitution prohibits the taking of private property for the purpose of economic development, a governing entity will designate an area as a slum or urban blight, which would allow for development of the area by a private entity. This method is referred to as the blight loophole. Slums and urban blight are defined in Local Government Code title 12 Section 374.003 as follows:

> (3) "Blighted area" means an area that is not a slum area, but that, because of deteriorating buildings, structures, or other improvements; defective or inadequate streets, street layout, or accessibility; unsanitary conditions; or other hazardous conditions, adversely affects the public health, safety, morals, or welfare of the municipality and its residents
>
> (19) "Slum area" means an area within a municipality that is detrimental to the public health, safety, morals, and welfare of the municipality because the area:
>
> (A) has a predominance of buildings or other improvements that are dilapidated, deteriorated, or obsolete due to age or other reasons;
>
> (B) is prone to high population densities and overcrowding due to inadequate provision for open space;
>
> (C) is composed of open land that, because of its location within municipal limits, is necessary for sound community growth through replatting, planning, and development for predominantly residential uses. (Local Government Code Title 12 Sec. 374.003 (3) & (19a-c), 1987)

To resolve these issues, policymakers should consider legislation to define public use, to eliminate the slum and blight loophole , to restore the balance on determinations of public use and necessity, to end

the use of eminent domain for land speculation, and to strengthen the buyback mechanism if the project for which the government appropriated the land has not made any significant development.

EMINENT DOMAIN IN THE FEDERAL AND TEXAS CONSTITUTIONS

While the U.S. Constitution does not expressly grant the power of eminent domain to any entity, it relies upon the Fifth Amendment, which establishes a set of obligations (also known as the Takings Clause) that the government must meet to be able to take private property. The Amendment states,

1. That property may only be taken for a public use
2. That property may only be taken through due process
3. That property may only be taken if the owner receives just and adequate compensation. (Peacock, 2014, p. 2)

Article 1, Section 17, of the Texas Constitution has more limited language than its U.S. counterpart, providing that:

> a. No person's property shall be taken, damaged or destroyed for or applied to public use without adequate compensation being made, unless by the consent of such person; and only if the taking, damage, or destruction is for:
>
> 1. the ownership, use, and enjoyment of the property, notwithstanding an incidental use, by:
>
> A. the State, a political subdivision of the State, or the public at large; or B. an entity granted the power of eminent domain under law; or
>
> 2. the elimination of urban blight on a particular parcel of property.
>
> b. In this section, "public use" does not include the taking of property...for transfer to a private entity for the primary purpose of economic development or enhancement of tax revenues. (Tex. Const. Art. 1 Sec. 17)

PUBLIC USE

Kelo v. City of New London

The 2005 case *Kelo v. City of New London* is the most well-known eminent domain case that revolved around the question of defining "public use." The city of New London, Connecticut, sought to revitalize its economy by developing a particular area of the city to capitalize on the "arrival of the Pfizer facility and the new commerce it was expected to attract" (*Kelo v. City of New London,* 2005, para. 5). The area in question comprised of 115 privately owned property and 32 acres of land, formerly occupied by a naval facility that was divided into seven parcels, each for a different use. The city purchased much of the property required for the project but invoked the condemnation process against those property owners unwilling to sell. The property owners, including Susette Kelo, brought their petition to the court, stating that the city violated the Takings Clause of the Fifth Amendment because the city intended to turn their property over to private developers, and that the private entity would be the primary beneficiary of the project, not the public. The city argued that the development of the area would bring an excess of 1,000 jobs, increase tax and other revenues, and revitalize the economically distressed city (*Kelo v. City of New London,* 2005). The U.S. Supreme Court found that the economic development created a public good and therefore constituted a public use, as spelled out in Chapter 132 of Connecticut's municipal development statute. In the majority opinion delivered by Justice Stevens, the court found that even though private property was being transferred to a private entity (the developers), the primary beneficiaries would be the public in two ways: 1) by way of a reasonable assumption of increased revenue generated by attracting higher paying jobs through the Pfizer facility and commercial marinas, and 2) tourism through the state park and recreational marinas. The Supreme Court also affirmed that the City of New London was not appropriating land for

Kelo reaffirmed the rights reserved to the states to the authority to specify the conditions under which eminent domain could be claimed. In the aftermath of Kelo, 45 states enacted laws limiting eminent domain.

private purposes simply under the pretext of public use because they followed a detailed economic development plan.

Dissenting, Justice Thomas argued that the decision in *Kelo* has "erased the Public Use Clause from our Constitution," arguing that the eminent domain cases that have been brought before the Court have "strayed from the Clause's original meaning" (*Kelo v. City of New London*, 2005, para. 2). Justice Thomas disagreed with the majority opinion that public good and public use are essentially interchangeable, noting that there were purposeful distinctions made between "general welfare" and "public use" when these phrases were penned by the Framers of the Constitution. He argued that if the Framers meant for governments to justify the taking of private property under a public interest, then the Framers would have used such language. Thomas suggested that the phrase "public use" is not a vague statement, nor is it interchangeable with the public good. Public use should be narrowly defined and limited to taken property being literally used by the public for example, an easement for access to a road or as a common carrier for a utility, not for "any conceivable benefit from the taking" (*Kelo v. City of New London*, 2005).

A critical finding from the majority opinion was that "[The Court emphasizes] that nothing in our opinion precludes any State from placing further restrictions on its exercise of the takings power" (*Kelo v. City of New London,* 2005). Thus, *Kelo* reaffirmed the rights reserved to the states to the authority to specify the conditions under which eminent domain could be claimed. In the aftermath of *Kelo*, 45 states enacted laws limiting eminent domain.

Nearly 20 years after the *Kelo* decision, the Fort Trumbull of New London, Connecticut area at the center of the case remains undeveloped. Ironically, Pfizer, which would have been the centerpiece of the development, closed its doors in November of 2008. Without Pfizer serving as the magnet that was to attract businesses, residents, and tourists, 1,000 jobs were lost, instead of the thousands promised by the City of New London. In the end, the city and state spent nearly $80 million on this condemnation with nothing to show for it. This failure is but one example highlighting why economic development is not a proper role of government, and the highest value of property should be left to market forces.

Texas Rice Land Partners, Ltd. v. Denbury Green Pipeline-Texas, LLC

While the *Kelo* decision allows entities to exercise eminent domain authority for the purpose of economic development, the Texas Constitution prohibits it (in part). A private entity can be authorized to exercise this authority only if it is able to prove itself a "common carrier" of a public good through application to the state. An entity is considered a common carrier by the state if it is "a person or a commercial enterprise that transports passengers or goods for a fee and establishes that their service is open to the general public" (Legal Information Institute, 2021). For example, electricity is a public good but is produced by private entities. To deliver electricity to peoples' homes, the private entity may need to claim eminent domain on pieces of private property to construct the power lines. The decision made by the Texas Supreme Court in *Texas Rice Land Partners, Ltd. v. Denbury Green Pipeline-Texas, LLC* made it easier for private entities to be considered a common carrier following the trend that began with *Kelo* of eroding the private property rights of Texans.

In the case of *Texas Rice Land Partners, Ltd. v. Denbury Green Pipeline-Texas, LLC*, the latter sought to condemn an easement on land belonging to Texas

Rice Land Partners for the purposes of a CO2 pipeline. Texas Rice Land Partners denied Denbury access to its land to survey the area on the grounds that the CO2 pipeline would only serve the private interests of the pipeline company. Denbury asserted its eminent domain authority because it was granted a T-4 permit by the Texas Railroad Commission, which administratively labels an entity as a common carrier.

The Texas Supreme Court held that "simply checking a box" does not conclusively grant an entity eminent domain power (*Texas Rice Land Partners, Ltd. v. Denbury Green Pipeline-Texas, LLC,* 2012). When a property owner challenges the status of an entity as a common carrier, the burden falls on the entity to prove that the project is not being built "for the builder's exclusive use" (*Texas Rice Land Partners, Ltd. v. Denbury Green Pipeline-Texas, LLC*, 2012). To qualify as a common carrier, a reasonable probability must exist that the pipeline will at some point transport gas for one or more customers. Denbury was able to provide evidence that the gas would be consumed by two different companies unaffiliated with Denbury, specifically Airgas Carbonic, Inc. and Air Products and Chemicals, Inc. Though the Court found that a landowner can challenge the common carrier status of a private entity, the threshold of reasonable probability that a project is not being built for exclusive use is low.

Miles v. Texas Central Rail & Infrastructure, Inc.

In 2022, the case of *Miles v. Texas Central Railroad and Infrastructure, Inc.,* was decided by the Texas Supreme Court, who affirmed the eminent domain authority for a private company to develop a high-speed railway. In 2016, Texas Central Railroad contacted James Miles to conduct surveys on his property, as his 600 acres in Leon County lay on the preferred route for a planned bullet train between Houston and Dallas. Miles refused to allow the survey and petitioned for a declaratory judgement that Texas Central Railroad and its partner Texas Central Logistics, as private entities, do not have eminent domain authority. Texas Central Railroad and Texas Central Logistics filed their own petition for declaratory judgment that they do in fact have eminent domain authority as railroad companies and electric railway companies (*Miles v. Texas Central Railroad and Infrastructure, Inc.*, 2022). The Texas Supreme Court found that, based on the language in Chapter 131 of the Texas Transportation Code, Texas Central Railroad and Texas Central Logistics qualified as both railroads and interurban electric railways, and are thus empowered to condemn land (2022).

The decisions made by the courts in these three cases (*Kelo; Texas Rice Land Partners, Ltd.*; and *Miles*) stack the deck heavily against landowners who challenge eminent domain authority on the grounds of public use. Making it more difficult to challenge eminent domain authority on the grounds of public use violates the dignity of private property ownership and concept of a limited government.

JUST AND ADEQUATE COMPENSATION

An essential component of the eminent domain process is providing "just and adequate compensation" to the owner of property appropriated for public use. Since there is no concrete definition in the constitution of "just and adequate compensation," there has been lengthy debate in courts and in academic circles concerning this nebulous concept.

Fair Market Value

In 1897, in the case of *Bauman v. Ross*, the Supreme Court of the United States found that "fair market value" was the proper administrative standard by which "just and adequate compensation" should be judged (Boldt, 2012, p. 137). In 1936, the Texas Supreme Court came to the same conclusion in *Texas v. Carpenter* (*Texas v. Carpenter,* 1936). In *Carpenter*, the Texas Supreme Court found that just and adequate compensation was tied to market value, as opposed to subjective or speculative worth. The Court defined market value as the value "determined by hearing evidence on the price that a willing seller and a willing buyer would reach in a voluntary transaction"—also known as the "willing seller-willing buyer" test (Boldt, 2012, p. 149). The so-

called "willing seller-willing buyer test" theoretically ensures that the "just" part of "just and adequate compensation" by making the property owner whole without overcharging the people in the form of the entity claiming eminent domain, based on speculative or conjectural uses.

Alternatives to Market Value

Alternatives methods have emerged to challenge market value as the administrative standard to judge compensation. One method is compensating property owners through replacement cost, and is considered more just compensation because it allows the property owner to "purchase similar property to replace the property he gave up for the public good" (Janek et al., 2006, p. 12). Compensation through replacement cost was rejected by Texas courts, who noted that "replacement cost is not a proper basis for the valuation of property where said property has a market value" (Janek et al., 2006, p. 12). However, if a property owner must relocate, he could be entitled to relocation costs from the Texas Department of Transportation.

Another method that has been suggested as an alternative to fair market value is to compensate property owners based on the future income and use of the property that was taken. The Texas Supreme Court rejected this as a method for adequate compensation (Janek et al., 2006, p. 12). Instead of making the property owner whole, this method grants the owner a windfall to which he or she is not entitled—placing the owner in a better position than before the public entity condemned the property for public use.

Subjective or Intangible Value

Courts have not favored the consideration of subjective value; however, academics studying the subject of eminent domain believe that the intangible connection a person has to the property being appropriated has a monetary value that should be considered in the calculation of just and adequate compensation.

One argument discussed by Christopher Serkin, a law professor at Vanderbilt University who has published prolifically on land use and property laws, relies on the "'personality theory' of property" (Boldt, 2021, p. 158). This theory contends that "[f]air market value…is inherently inadequate to vindicate the personal connection people may have with [deeply personal] property" (Boldt, 2021, p. 158). Outside of the courts, some state legislatures have passed legislation that addresses the attachment that people place on property that would be taken by a public entity.

Missouri provides three options to be used in determining just and adequate compensation. These options are a compromise between the appraised value of property and the subjective value a property owner would place on their home or property that has been in their family for decades. Missouri tries to accomplish this balance by granting more than the fair market value of the property if it was a primary place of residence or has been in the property owner's family for 50 or more years:

> (1) the fair market value of such property;
>
> (2) 125% of fair market value for a homestead taking, which involves taking and displacing the owner of their "primary place of residence;"
>
> (3) 150% of fair market value for a "heritage value" taking. "Heritage value" is reserved for property that has been in "the same family for fifty or more years," including small businesses. (Boldt, 2012, p. 156)

Similar laws have been adopted in other states, like Indiana, Maryland, and Michigan, in an attempt to reconcile the idea value of a piece of property could be more than just its market value , while conceding an objective measure is necessary so that compensation has a standard that can be applied evenly to cases involving eminent domain.

CURRENT STATE OF LEGISLATION

After the *Kelo* decision, Texas took legislative action to protect property owners against the expansion of eminent authority. In 2008, Section 21.0112 was added to the Texas Property Code by HB 1495 (HB 1495 Bill Analysis, 2007), mandating that if "a governmental or private entity with eminent domain authority makes a final offer to a property owner to acquire real property, the entity must…provide a Landowner's Bill of Rights (LOBR) statement enumerated in Section 402.031, Government Code" (Tex. Property Code, Section 21.0012, 2008).

According to the Texas Government Code § 402.031, the LOBR statement must provide the property owner with the following:

1. notice of the proposed acquisition of the owner's property;

2. a bona fide good faith effort to negotiate by the entity proposing to acquire the property;

3. an assessment of damages to the owner that will result from the taking of the property;

4. a hearing under Chapter 21, Property Code, including a hearing on the assessment of damages;

5. an appeal of a judgment in a condemnation proceeding, including an appeal of an assessment of damages; and

6. file a written complaint with the Texas Real Estate Commission under Section 1101.205, Occupations Code, regarding alleged misconduct by a registered easement or right-of-way agent acting on behalf of the entity exercising eminent domain authority. (Tex. Government Code, 1987, Section 402.031)

The purpose of the LOBR is to overcome the informational asymmetry between property owners and the condemning entity. Because of the access to resources that condemning entities (including governments) have, there is an inherent imbalance in information regarding the eminent domain process. Property owners do not necessarily possess the time nor the inclination to make themselves aware of what steps need to be completed for a legal taking of their property, what their property is actually worth, and how the value of their property is determined. Closing the information gap allows landowners to negotiate from a stronger position and holds condemning entities accountable to providing just and adequate compensation.

In 2021, the Texas Legislature passed several bills to try to balance the power between entities with eminent domain authority and property owners.

HB 2730 requires the Attorney General to evaluate the LOBR at least once every two years for compliance with the requirements of Section 402.031, publish any proposed changes in the Texas Register, and have a public comment period for a reasonable amount of time. It also amends the LOBR to include the right to file a complaint against a registered easement or right of way agent; it requires private entities to provide easement terms unless a waiver is signed it provides for right of way agent education at the Texas Real Estate Commission; and the special commissioner's, a court appointed official whose duty it is to determine just compensation, front-end process consisting of timeline, alternate appointments, and strike period (HB 2730 Bill Analysis, 2021).

HB 4107 outlines the process a common carrier must follow before entering property for the purpose of conducting a preliminary survey. The common carrier must provide written notice of the intent to enter the property and an indemnification provision for any damages that might be caused during the survey. The indemnification provision must contain contact information so the property owner can ask questions or raise objections during the survey process. HB 4107 also protects private property by limiting access to the portion of the property that is affected by the survey and by making it clear that the bill

Texas should require that permission from the people be secured to condemn a parcel of land for the purpose of eliminating urban blight by holding a vote.

does not authorize the common carrier to remove or move fences unless the property owner allows it. Finally, the bill requires that the entity conducting the survey restores the property as reasonably close to its condition before entry (HB 4107 Bill Analysis, 2021).

SB 721 requires a condemning entity to provide any and all current appraisal reports, either produced or acquired, by that entity used to determine the value of the property they are trying to condemn to the owner of that property (SB 721, 2021).

SB 725 requires condemning entities to pay the taxes that a property was initially exempt from if that property loses its agricultural exemption due to the condemnation of the property (SB 725, 2021).

SB 726 amends Section 21.101 of the Texas Property Code to increase the required actions a condemning entity must take to prove that it has made actual progress towards a project. Originally, actual progress was defined as taking at least two of the following actions: 1) the performance of a significant amount of labor to develop the property; 2) providing significant amount of material to develop the property; 3) hiring or contracting with an architect engineer or surveyor and the performance of a significant amount of work by said architect engineer or surveyor to prepare a plan for the property; 4) application for federal or state funds; and 5) application for a state or deferral permit or certificate to develop the property. SB 726 increased the required actions to three, in turn eliminating the circumstance in which a condemning entity could claim actual progress simply by applying for funds or a permit (SB 726, 2021).

RECOMMENDATIONS

Clearly, property owners are at a serious disadvantage when opposing a taking of their property by eminent domain. The definition of "public use" is broad enough to cover projects from easements for pipelines to building sports arenas. Fortunately, Texas has enacted policies to mitigate the informational deficit that exists between property owners and condemning entities, in addition to protecting the landowner against any damages caused during the survey process and establishing a benchmark for progress that a condemning entity must demonstrate to prove that they are making actual progress towards a public use project.

While such reforms have proven beneficial, there are additional reforms necessary to protect property owners by limiting the instances in which entities can exercise eminent domain authority. First, Texas should require that permission from the people be secured to condemn a parcel of land for the purpose of eliminating urban blight by holding a vote. Though it makes sense, under the banner of public safety, to give entities the ability to address a blighted area or condemn buildings that are in such a state of disrepair that they cause harm to the public, this provision is broad enough to be abused. Reigning in this power will be difficult to enact, as it would require a change in the Texas Constitution, but it is imperative that it be done.

Second, Texas can hold entities that have condemned private property more accountable in completing their projects strengthening the "buy-back" provision found in the Texas Property Code (Section 21.101 (a), 2004). They buy-back provision—more formally referred to in statute as the right to repurchase—currently allows the property owner to purchase the land acquired for a project at the price at which it was sold or at the current fair market value, whichever is more affordable for the original property owner . Strengthening this mechanism could be as simple as decreasing the time allotted to complete required actions from ten years to five years.

Finally, the definition of "public use" must be narrowed. Governments of all kinds should not interfere with private property, except to address specific and immediate needs of the public. The ambiguous *possibility* of a condemnation being a public good should not be sufficient for taking private property, especially if the property is transferred to a private entity. When easements for utilities must be created (i.e., natural gas lines for heat, or power lines for electricity), eminent domain exists to ensure the public necessity is addressed with minimal delay. In contrast, there are several instances in which governments grant eminent domain authority to a private entity to pursue projects of dubious "public use"—which was the case in 2005 when the City of Arlington condemned property to build the AT&T Stadium (Montine, 2014). While "public use" is broadly defined, the burden of proof lies with the property owner to prove that a project does *not* meet that definition. Instead, the burden of proof should be on the condemning entity to demonstrate that their project satisfies a public necessity.

CONCLUSION

The primary function of government is to protect the rights of its citizens, and so long as it remains easy for property rights to be undermined the greater the government's dereliction of this duty. The improper exercise of eminent domain is a grave violation of an individual's property rights. Eminent domain is not a tool for governments to implement economic development, nor should it be used to fulfill the pet projects of private entities. Reforming the policies surrounding the use of eminent domain is crucial to the preservation of private property, and it is imperative that the government knows that it exists to serve the people, not the other way around. ■

REFERENCES

Boldt, P. (2012). Condemning fair market value: An appraisal of eminent domain's just compensation. *Texas Wesleyan Journal or Real Property Law, 1*(1), 131-168. https://scholarship.law.tamu.edu/cgi/viewcontent.cgi?article=1006&context=txwes-jrpl

HB 1495 Bill Analysis. Senate Research Center. Engrossed. 80th Texas Legislature. Regular. (2007, May). https://www.legis.state.tx.us/tlodocs/80R/analysis/pdf/HB01495E.pdf

HB 2730 Bill Analysis. Senate Research Center. Engrossed. 87th Texas Legislature. Regular. (2022, May). https://capitol.texas.gov/tlodocs/87R/analysis/pdf/HB02730E.pdf

Janek, K., Woolley, B., Duncan, R., Lucio, Jr., E., Nelson, J., Williams, T., Cortez, F., King, P., Peña, A., & Veasey, M. (2006, December 1). *Interim committee to study the power of eminent domain*: *Report to the 80th Texas Legislature* [Interim committee report]. Texas Senate. https://senate.texas.gov/cmtes/79/c845/c845.InterimReport79.pdf

Kelo v. City of New London, 545 U.S. 469 (2005). https://supreme.justia.com/cases/federal/us/545/469/#tab-opinion-1961893

Kratovil, R., & Harrison, Jr., F.J. (1954). Eminent domain - policy and concept. *California Law Review,* 42, 596. https://heinonline.org/HOL/LandingPage?handle=hein.journals/calr42&div=46&id=&page=

Local Government Code Chapter 12 Section 374.003. (1987).

https://statutes.capitol.texas.gov/Docs/LG/htm/LG.374.htm#:~:text=(3)%20%22Blighted%20area%22,health%2C%20safety%2C%20morals%2C%20or

Locke, J. (1823). *Two treatises of government.* McMaster University Archive of the History of Economic Thought. https://www.yorku.ca/comninel/courses/3025pdf/Locke.pdf

Miles v. Tex. Cent. R.R. & Infrastructure, 647 S.W.3d 613 (Tex. 2022). https://casetext.com/case/miles-v-tex-cent-rr-infrastructure-2

Montine, P. (2014). Forced turnovers: using eminent domain to build professional sports venues. *Washington Journal of Law, Technology & Arts, 9*(4), 331-48. https://digitalcommons.law.uw.edu/cgi/viewcontent.cgi?article=1196&context=wjlta#:~:text=In%202005%2C%20the%20City%20of,for%20the%20New%20Jersey%20Nets

National Archives. (n.d.). *The Bill of Rights: A transcription*. Retrieved August 13, 2024, from https://www.archives.gov/founding-docs/bill-of-rights-transcript

Peacock, B. (2014). *Protecting property rights: Just compensation or just take it?.* Texas Public Policy Foundation. https://www.texaspolicy.com/wp-content/uploads/2018/08/2014-12-PP41-PropertyRightsJustTakings-CEF-BillPeacock.pdf

SB 721. Enrolled. 87th Texas Legislature. Regular. (2021). https://capitol.texas.gov/tlodocs/87R/billtext/pdf/SB00721F.pdf

SB 725. Enrolled. 87th Texas Legislature. Regular. (2021). https://capitol.texas.gov/tlodocs/87R/billtext/pdf/SB00725F.pdf

SB 726. Enrolled. 87th Texas Legislature. Regular. (2021). https://capitol.texas.gov/tlodocs/87R/billtext/pdf/SB00726F.pdf

Tex. Government Code. § 402.031 (2008 & rev. 2022). https://statutes.capitol.texas.gov/docs/GV/htm/GV.402.htm

Tex. Property Code § 21.0012 (2007 & rev. 2010). https://statutes.capitol.texas.gov/Docs/PR/htm/PR.21.htm

Tex. Property Code § 21.101 (2004 & rev. 2021). https://statutes.capitol.texas.gov/Docs/PR/htm/PR.21.htm

Texas Rice Land Partners, Ltd. v. Denbury Green Pipeline-Texas, LLC, 363 S.W.3d 192, 55 Tex. Sup. Ct. J. 380 (Tex. 2012). https://casetext.com/case/texas-rice-land-partners-ltd-v-denbury-green-pipeline-texas-1#:~:text=Denbury%20Green%20sued%20Texas%20Rice,in%20favor%20of%20Denbury%20Green

ABOUT THE AUTHOR

John Bonura is a Policy Analyst for the Taxpayer Protection Project with Texas Public Policy Foundation.

Prior to joining TPPF John served in the University system as a Graduate Assistant until he was given the opportunity to teach Principles of American Government. John holds a Master of Arts in Political Science from Texas State University and a Bachelor of Arts in Political Science from Sam Houston State University.

As a proud Eagle Scout John is an avid camper and enjoys spending time in the outdoors as well as at home with his wife.

Texas Public POLICY FOUNDATION

901 Congress Avenue | Austin, Texas 78701 | (512) 472-2700 | www.TexasPolicy.com