



**Explore Issues Surrounding  
New Eminent Domain  
Legislative Developments**

# **EMINENT DOMAIN: LEGAL UPDATE AND PRACTICAL TIPS**

**Honolulu, Hawaii  
October 12, 2006**

**Understand the impact of  
case law and legislative changes.**

**Continuing Education:  
HI Continuing Legal Education  
CA CLE - 6.0**

**See inside for details!**



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# What You Will Learn

## I. KEY EMINENT DOMAIN CONCEPTS

*David L. Callies, 9:00 - 10:15*

- A. What is Eminent Domain?
- B. The Distinction Between 'For Public Use' and 'For Public Benefit'
- C. Constitutional Limitations - Public Use Clause
- D. Who has the Right to Take Property?
- E. Sources of Takings Power
- F. Rights of the Parties Involved
- G. Inverse Condemnation
- H. Partial Takings
- I. Impact of Eminent Domain on Transfer of Title

## II. HOW RECENT CASE LAW AND LEGISLATIVE DEVELOPMENTS IN EMINENT DOMAIN WILL IMPACT YOU

*David L. Callies and Robert H. Thomas, 10:30 - 12:00*

- A. Impact of *Kelo v. City of New London*
- B. Federal, State and Local Rules and Regulations
- C. Case Law and Legislative Update

## III. UNDERSTANDING JUST COMPENSATION

*Jan Medusky and Robert H. Thomas, 1:00 - 2:15*

- A. Compensation for the Taking
- B. Determining 'Fair Market Value'
- C. Understand Highest and Best Use
- D. Evaluating and Establishing Damages
- E. Mitigating Damages
- F. Severance Damages
- G. Negotiating Relocation Benefits
- H. Compensation for Temporary Taking

## IV. THE DEBATE BETWEEN GOVERNMENT RIGHTS AND PROPERTY OWNER RIGHTS

*James K. Mee and Robert H. Thomas, 2:15 - 3:15*

## V. STRATEGIES FOR EFFECTIVELY SETTLING THE EMINENT DOMAIN ACTION

*James K. Mee, 3:30 - 4:30*

- A. Comparing and Contrasting Settlement vs. Litigation
- B. Exploring Your Settlement Options
- C. Tactics and Techniques for Negotiating a Settlement
- D. Using Alternative Dispute Resolution and Mediation
- E. Developing a Settlement Agreement

\* If needed, the above agenda may be changed to best accommodate all our attendees.

### Who'll be there...

This basic-to-intermediate seminar is designed to give the following professionals the most up-to-date information concerning this controversial topic:

- City board members
- County board members
- Zoning board members
- Planners
- Engineers
- Architects
- Developers
- Real estate professionals
- Attorneys

## Credit Information

This seminar is a valuable opportunity to get the continuing education that's so crucial to keeping up to date in your profession. Not only was this program carefully designed to meet its educational objectives, but you can also take advantage of specific continuing education credits we've arranged with appropriate accrediting organizations:

HI Continuing Legal Education

This program was designed to provide relevant continuing education benefits for Hawaii attorneys, including specific issues pertinent to practicing law in Hawaii.

CA CLE - 6.0

This activity has been approved for Minimum Continuing Legal Education credit by the State Bar of California in the amount of 6.0 hours. National Business Institute certifies that this activity conforms to the standards for approved education activities prescribed by the rules and regulations of the State Bar of California governing minimum continuing legal education. National Business Institute is a State Bar of California approved MCLE provider - #53.

The specific continuing education credit(s) listed above are for attending the live seminar. The credits may or may not apply for the audio version of this seminar. Please check with your credit board for details.

For additional questions regarding continuing education credits please contact us at (866) 240-1890.

# Eminent Domain: Legal Update and Practical Tips

## Why You Need to Attend

- Assess the impact of new and pending case law and legislative changes on eminent domain actions with an insightful exchange from both sides of this pressing issue.
- Understand the distinction between 'for public use' and 'for public benefit' so you can determine if a potential taking is justified.

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The Supreme Court's ruling in *Kelo v. City of New London* has changed the landscape of eminent domain. New rulings have given the government unprecedented legal power to take property – and they have left many property owners outraged. Your legislature is currently debating changes to eminent domain laws intended to clarify the eminent domain requirements and rights to take property. Are you up to date on recent changes and current initiatives? Can you properly handle an eminent domain action – representing either the government or the property owner – under the current and changing legal rules?

At this timely seminar our experienced faculty will provide you with a current, balanced perspective of both sides of this pressing legal issue. Know exactly how the *Kelo* ruling, current case law and legislative actions in your state will impact you. Examine the delineation between “public use” and “public benefit” and see how the line has been blurred following recent decisions. Take a comparative look at government and property owner rights so you have a well-rounded perspective to apply to whichever side of a case you're asked to represent.

## Important Details

**October 12 - HONOLULU - Hawaii Prince Hotel**

100 Holomoana Street, Honolulu HI 96815 808-956-1111

**Time:** Registration is from 8:30—9:00 a.m. The program will begin at 9:00 a.m. and end at 4:30 p.m. Complimentary snacks and refreshments are provided. Lunch is on your own.

Pre-Registration is encouraged.

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If you need to register at the door, you may wish to call us first to confirm availability and to receive information regarding schedule or location changes.

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\*A new professional is anyone with three or less years of professional work experience.

**Accommodations:** To obtain directions and parking information please contact the hotel listed above.

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**Audio Recordings:** This seminar will be recorded in its entirety. If you can't attend, you can still obtain the benefits of the information provided by purchasing the manual and CD. See the registration form to order. If you wish to receive the cassette tape instead of the CD, please contact us at (800) 930-6182.

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# Get a Balanced Perspective on Current and Pending Case Law and Legislative Actions

## Who Will Teach You

Learn From an Outstanding Faculty!

**DAVID L. CALLIES** is the Benjamin A. Kudo Professor of Law at the William S. Richardson School of Law, where he teaches property, land use, and state and local government law. He holds law degrees from the University of Michigan (J.D., where he served as editor of the Journal of Law Reform) and Nottingham University (LL.M. in town planning law) and is a life member of Clare Hall College, Cambridge University. A past chair of the Hawaii State Bar Association Section on Real Property and Financial Services and the American Bar Association Section on State and Local Government Law, he is an elected member of the College of Fellows of the American Planning Association, the American Law Institute, and the American College of Real Estate Lawyers. The coeditor of the annual *Land Use and Environmental Law Review*, he is the author of 13 books (including, with Kotaka, *Taking Land: Compulsory Purchase and Regulation in Asian-Pacific Countries, 2002*, and with Curtin and Tappendorf, *Bargaining for Development, 2003*), including two nationally-used textbooks in property and land use law, and over 100 articles. He is a regular speaker at the annual meetings of the American Planning Association, the Rocky Mountain Land Use Institute, the American Bar Association, and the American Law Institute-American Bar Association annual program on inverse condemnation.

**JAN MEDUSKY, MAI, CRE and CGA**, is the president of Medusky & Co., Inc., where his firm specializes in real estate consulting. Mr. Medusky has extensive experience as an expert witness for real estate valuation matters including condemnation. He is also a broker in Hawaii and has experience as an arbitrator for real estate disputes including ground rent determinations. The geographic area covered includes the Pacific Basin, including the United States West Coast. He received her B.S. degree from the United States Military Academy at West Point and his MBA from Chaminade University in Honolulu. Mr. Medusky is a member of the Appraisal Institute and Counselors of Real Estate.

**JAMES K. MEE** is a partner in the law firm of Ashford & Wriston where he practices in the areas of real estate, land use and constitutional law. He is a frequent lecturer and writer on a variety of real estate and land use matters. Mr. Mee earned his B.A. degree from Williams College and J.D. degree from Boalt Hall School of Law, University of California at Berkeley. He is a member of the Hawaii State Bar and the founder and secretary of the Hawaii Small Landowners Association, 1986 to present. Mr. Lee formerly served as an attorney for the Pacific Legal Foundation.

**ROBERT H. THOMAS** is a partner in the law firm of Damon Key Leong Kupchak Hastert, L.C., in Honolulu, Hawaii, and Berkeley, California. He specializes in land use issues including eminent domain, regulatory takings and water rights. Mr. Thomas has tried cases and appeals in Hawaii, California, and the federal courts. He is also the managing attorney for Pacific Legal Foundations' Hawaii Center, a public interest foundation dedicated to defending private property rights and individual freedom. He filed a brief amicus curiae in *Kelo v. City of New London*, and addressed the case and its implications in several venues including the National Association of Counties Annual Conference, the Hawaii Farm Bureau Federation annual meeting, the University of Hawaii Law School environmental law colloquium, and various conferences in California, Illinois and Hawaii. Mr. Thomas also taught law at the University of Santa Clara School of Law and was an exam grader and screener for the California Committee of Bar Examiners. His latest article is "Arrow of Time: Vested Rights, Zoning Estoppel, and Development Agreements in Hawaii," 27 U. Haw. L. Rev. 17 (2004). Mr. Thomas earned his LL.M. degree, with honors, from Columbia Law School where he was a Harlan Fiske Stone Scholar and his J.D. degree from the University of Hawaii School of Law where he was an editor of the *Law Review*.

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### Practical Guide to Zoning and Land Use Law in Hawaii

As a land use professional, you know that shifts in zoning and land use actions have created dramatic changes in land use regulations. In order to best serve your clients, you need to stay on top of these updates. How does your zoning and land use law knowledge stack up? Get the information you need in this targeted manual.

Analyze and address practical issues from a variety of perspectives in the zoning and land use field. Get a handle on fundamental zoning and land use actions. Find out how constitutional limitations on zoning and land use actions may impact your clients or business. Discover how to initiate judicial challenges to rezoning decisions and get practical advice for handling judicial appeals of administrative zoning decisions.

By: Lawrence D. Kumabe, John P. Whalen and Vernon Y. T. Woo. 130 Pages © December 2004  
**FP14306 CD & Manual - \$199 Manual - \$99**

### Road and Access Law in Hawaii: How to Research and Resolve Access Disputes

Conflict is inevitable when it comes to road and access law and who is entitled to what. Yet when clients call you in to determine who has rights in an easement, private road or right-of-way dispute, traditional negotiating tactics can fall short. As a result, agreements blow up, cases don't settle and - too often - you end up in court. You need advanced techniques if you're to change the game from conflict to collaboration.

That's why we're offering this manual - to expand your knowledge of road and access law and teach the finer points of resolving disputes in your client's favor. You'll explore the newest and best ways to provide the right advice when dealing with both public and private creations and use issues. Save time and frustration by thoroughly understanding who supervises, manages and controls highways. Handle title insurance, deeds and other transactions in ways that will hold up in court, and much more. Come away with a proven and positive approach for addressing and resolving disputes as they arise in the volatile environment of road and access law.

By: Patrick M. Cummins, Michael W. Gibson and Isaac D. Hall Jr. 143 Pages © May 2005  
**FP25457 CD & Manual - \$199 Manual - \$99**

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