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# Ilya Somin's *The Grasping Hand: Kelo v. City of New London & The Limits of Eminent Domain* (Book Review)

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interpretations. The final chapter, on child advocacy and activism, concludes mostly that it is hard to draw any firm conclusions from recent evidence. While UNICEF and other bodies have been experimenting with various ways to involve children in peace building, some things work, some do not. But the authors very usefully run down the issues confronting children in conflict zones and provide an important framework for involving children in their own protection.

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**The Grasping Hand: *Kelo v. City of New London* and the Limits of Eminent Domain** by Ilya Somin. Chicago, University of Chicago Press, 2015. 330 pp. Cloth, \$30.00; paper, \$20.00.

In 2005, the U.S. Supreme Court by a 5–4 vote allowed the New London Development Corporation to take Susette Kelo’s little pink house, along with those of her neighbors who took part in the constitutional challenge that bore her name. Legal scholars were unsurprised by the decision, but ordinary Americans across the political spectrum were outraged by the endorsement of local government’s power to seize their homes.

A decade later, Ilya Somin presents a comprehensive, well-organized case for the strict federal constitutional constraints on state and local use of eminent domain that the *Kelo* majority declined to impose. More particularly, Somin argues that, properly understood, the Fifth Amendment’s public use clause, as applied to the states through the Fourteenth Amendment, prohibits them from seizing privately owned property for transfer to other private entities in the name of economic development. He seeks to sway his readers by educating them: first about the circumstances of the *Kelo* litigation, then about the history of public use clause jurisprudence, and finally about the aftermath of the *Kelo* decision.

Somin begins with a fairly balanced view of the parties involved in the development plan dispute that went all the way to the U.S. Supreme Court. This evenhanded tone eases the open-minded reader into the next two chapters, which contain the heart of Somin’s largely historical argument. Unlike many proponents of the takings revolution, he does not succumb to the temptation to locate the origin of all judicial capitulation to eminent domain abuse with the U.S. Supreme Court’s urban renewal decision in *U.S. v. Berman*. Somin realizes that his position requires him to reject not only the Court’s now 60-year-old decision in *Berman* but also precedent from the prior century as well. Worse still, the era of the Founders also lacks

relevant legal decisions that support his restrictive interpretation of “public use.”

Somin turns to a variety of originalism that would interpret the constitutional rights incorporated by the Fourteenth Amendment as they were understood at the amendment’s enactment rather than at the time the Bill of Rights went into effect. This move allows Somin to reference favorable Civil War-era state court decisions and to shape a Reconstruction narrative of federal power deployed to restrict state government oppression of newly emancipated African Americans. Somin manages not only to sidestep difficult conversations about property rights protections and slavery but also to connect thematically his originalist interpretation with the urban renewal-era struggle against eminent domain abuse. Although the argument is, at best, a long shot, its originality and ideologically broad appeal provide reason to read the book even to those already familiar with Somin’s previously published scholarship.

Ultimately, Somin’s single-minded dedication to a federal constitutional ban on economic development taking prevents the book from offering a full and fair consideration of alternative responses to eminent domain abuse. His survey of the various state legislative reforms enacted as a result of homeowner backlash to *Kelo* quite rightly points out the shortcomings of populist challenges to sophisticated vested interests. But his blatant aversion to engage with the substantial problems that public purpose land assembly faces without resort to eminent domain closes off any fair comparison of proposals that rival his own, particularly the position of fellow libertarian and ardent *Kelo* critic, Richard Epstein. Even so, the failure of Somin’s ambitious argument does not prevent the book from being an informative, engaging, and timely contribution to this fascinating and chronically misunderstood subject.

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**Soviet Leaders and Intelligence: Assessing the American Adversary during the Cold War** by Raymond Garthoff. Washington, DC, Georgetown University Press, 2015. 160 pp. Paper, \$26.95.

There are very few people who can write about Soviet leaders’ thinking and the role that intelligence played in shaping their views with the authority that Raymond Garthoff can and does in his new book. For students of the Cold War, Garthoff’s work is widely recognized. Among others, he has