

## **Rutherford Institute Calls on U. S. Supreme Court to Scale Back Government’s Eminent Domain Powers, Better Protect Private Property**

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Denouncing the government’s ongoing abuse of its eminent domain powers, The Rutherford Institute is asking the U. S. Supreme Court to scale back the government’s ability to seize private property in order to benefit influential business interests.

In weighing in on *Violet Dock Port, Inc. v. St. Bernard Port, Harbor & Terminal Dist.*, Rutherford Institute attorneys have asked the Court to review and reverse a lower court ruling that allowed the state of Louisiana to use its eminent domain powers to lay claim to property from one private port business so that it could be operated by a *different* private business with government connections.

Rutherford Institute attorneys argue that the Supreme Court’s 2005 decision in *Kelo v. City New London* opened the door to governments exercising their power of eminent domain to enrich politically powerful corporate interests and eliminate competition. The [amicus brief](#) filed by The Rutherford Institute and a coalition including the National Federation of Independent Business, Southeastern Legal Foundation, the Atlantic Legal Foundation, and the Cato Institute, asks the Court to limit the scope of the *Kelo* decision and to require courts to review carefully whether a taking of private property is for a “public purpose.”

“The Fifth Amendment to the U.S. Constitution has become yet another broken shield, incapable of rendering any protection against corporate greed while allowing the government to justify all manner of ‘takings’ in the name of the public good,” said constitutional attorney John W. Whitehead, president of The Rutherford Institute and author of [Battlefield America: The War on the American People](#). “Yet our founding fathers believed that a principal function of government should be to protect the property rights of its citizens. They certainly didn’t intend for eminent domain to be used to enrich corporate interests.”

For decades, Violet Dock Port, a private business, has operated a port facility along the Mississippi River in Louisiana, where it provided support services for U.S. Navy vessels and was planning to provide services for the loading and unloading of cargo for commercial vessels. The port facility was built on a 75-acre parcel of land that has deep water and access to both railroads

and highways. Over the years, Violet Dock has reinvested its profits in order to expand and develop its docks and related infrastructure and had planned to also provide cargo services.

In 2008, the St. Bernard Port, Harbor & Terminal District (referred hereafter as Port District), a local government district that owned port and harbor district facilities but did not operate its own facilities, decided to expand its business. For over a decade, the Port District had leased its docks to a private entity, Associated, that acted as the Port District's exclusive terminal operator. Violet Dock's plan to provide cargo services would have directly competed with Associated. Significantly, instead of upgrading its own facilities, the Port District, with the assistance of Associated, moved to "take" Violet Dock's business property using the eminent domain power granted by Louisiana law. Violet Dock contested the taking in court, asserting that the taking was not for a "public purpose," but was intended to eliminate a private competing business and benefit Associated. The Louisiana courts denied Violet Dock's challenge, ruling that what constitutes a "public purpose" under *Kelo* is broad and includes the operation of a public port.

The *amicus* brief filed by The Rutherford Institute and its coalition partners argues that the courts are too deferential to government claims of eminent domain takings for a so-called "public purpose" and that the courts must provide real protection to citizens from takings that are a pretext for eliminating competition and benefiting influential private businesses.