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**Eminent  
Domain**

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## Eminent Domain Quiz

1. **The power of eminent domain:**
  - A. Is named after the Roman Cardinal “His Eminence Novus Ordo Seclorum”
  - B. Is an attribute of sovereignty
  - C. Developed as a system to protect navigable waters of the thirteen colonies
  - D. Is available for use on Indian tribal ground
  
2. **Eminent Domain is NOT possessed by**
  - A. Condo Association
  - B. Federal government
  - C. State Government
  - D. Local Government
  
3. **Eminent Domain may be possessed by:**
  - A. Railroads
  - B. Cable/Satellite television companies
  - C. Local phone Companies
  - D. All the above
  
4. **In Iowa even a private individual can be granted a limited right to eminent domain.**
  - A. No.
  - B. No – it must be a governmental entity
  - C. No – It must be a governmental entity or a public utility
  - D. Yes
  
5. **Eminent domain can only be exercised when the property is being taken for**
  - A. “The good of the government”
  - B. “Governmental administrative and logistical convenience”
  - C. A “public use”
  - D. “Executive branch necessities”
  
6. **What is a “Taking?”**
  - A. Any governmental acquisition of real or personal property
  - B. Non-acquisitive governmental action which may amount in a “taking”
  - C. A trigger that the property owner must be “justly” compensated.
  - D. All the above.
  - E. None of the above

7. **Any time the government regulates a property (i.e. zoning) compensation must be paid to the effected owners of the property.**
- A. True – as guaranteed in the 5<sup>th</sup> and 14<sup>th</sup> amendment due process protections.
  - B. False – compensations is only if the regulation goes too far in restricting a property
  - C. True – as part of the “bundle of sticks” you acquire as a private property owner
  - D. False – State government never has to pay unless approved by the Governor
8. **The following are “Public Uses” and would allow the owner of the property to sue for just compensation if property is taken for the following projects.**
- A. Amusement Park
  - B. Grocery Store
  - C. Bible College
  - D. Rail-to-trail pathway
  - E. All of the above
9. **What are the police powers of government?**
- A. War, Coin Money, Safety, Space
  - B. Safety, Health, Transportation, Treaties with Indians and Foreign Countries
  - C. Welfare, Safety, Health and Morals
  - D. Nudity, Tobacco, Alcohol, Internet Pornography
10. **“Just” compensation**
- A. Is always subject to judicial review
  - B. Is the amount the owner of the taken property believes he is entitled to
  - C. Is the amount the “taker” of the property believes the property is worth
  - D. Is the amount the DOT beats into the head the owner and review board

## Eminent Domain Quiz Answers

**1. The power of eminent domain:**

- A. Is named after the Roman Cardinal “His Eminence Novus Ordo Seclorum”
- B. Is an attribute of sovereignty
- C. Developed as a system to protect navigable waters of the thirteen colonies
- D. Is available for use on Indian tribal ground

**Answer = B**

The United States as a sovereign nation has the self granted power.

His Eminence -- is generally a title of honor applied to cardinals

Novus Ordo Seclorum – is actually Latin for “ a new order of the ages (is born);

and is the motto on the reverse of the great seal of the United States. Indian grounds are their own sovereign nations, and United States laws are not applicable to them.

**2. Eminent Domain is NOT possessed by**

- A. Condo Association
- B. Federal government
- C. State Government
- D. Local Government

**Answer = A**

A local condo association does not automatically have this power. A local government does have the power when it has been delegated to them by the state legislature

**3. Eminent Domain may be possessed by:**

- A. Railroads
- B. Cable/Satellite television companies
- C. Local phone Companies
- D. All the above

**Answer = D**

A private corporation may (with similar delegation from the legislature) that discharge a public duty or are designated to promote the public convenience (e.g. public utilities).

**4. In Iowa even a private individual can be granted a limited right to eminent domain.**

- A. No.
- B. No – it must be a governmental entity
- C. No – It must be a governmental entity or a public utility
- D. Yes

**Answer = D**

See Iowa Code Chapter 6A.4(2) which grant the power of eminent domain to private owners of land without a way to the land. “Landlocked” property.

**5. Eminent domain can only be exercised when the property is being taken for**

- A. “The good of the government”
- B. “Governmental administrative and logistical convenience”
- C. A “public use”
- D. “Executive branch necessities”

**Answer = C**

When a property is “taken” , the owner must be compensated.

**6. What is a “Taking?”**

- A. Any governmental acquisition of real or personal property
- B. Non-acquisitive governmental action which may amount in a “taking”
- C. A trigger that the property owner must be “justly” compensated.
- D. All the above.
- E. None of the above

**Answer = D**

Taking includes not only physical appropriation, in also includes non-acquisitive governmental action, which may amount to a taking in a constitutional sense. For example – the U.S. Supreme Court found a taking of an air easement where aircraft noise made a home located near the end of a runway unbearable for use.

7. **Any time the government regulates a property (i.e. zoning) compensation must be paid to the effected owners of the property.**
- A. True – as guaranteed in the 5<sup>th</sup> and 14<sup>th</sup> amendment due process protections.
  - B. False – compensations is only if the regulation goes too far in restricting a property
  - C. True – as part of the “bundle of sticks” you acquire as a private property owner
  - D. False – State government never has to pay unless approved by the Governor

**Answer = B**

It is clear that a state may “regulate” property without the payment of compensation. However, if the regulation goes too far, a taking may be found. The matter of line drawing in this regard is a question of degree. A few general principles emerge:

- A. Zoning regulations have been held consistently to be merely regulation not requiring compensation. Only a truly bizarre zoning ordinance would fail to pass constitutional muster as a noncompensable regulation.
- B. In emergency situation, (in time of war, or insurrection) the government may regulate without paying compensation. For example, a State (Virginia) may be permitted to order the destruction of ornamental red cedar trees without paying compensation (the trees were dangerous to Virginia’s apple industry).
- C. A reduction in the value of property will not necessarily indicate a “taking” particularly where the owner is free to pursue other reasonable investment expectations. However, the Supreme Court found a taking when the state denied a landowner all economically beneficial use of his land by enacting a law that prohibited the owner from erecting any permanent habitable structures on two parcels of land. The state law had rendered the land “valueless”.
- D. Physical occupation of even a very small part of one’s property will still be a “taking.” The U.S. Supreme Court found a taking when New York City authorized cable TV installments for tenants in privately owned apartment houses. However, the Court held that a rent control ordinance was a regulation of use where the landowner suffered no physical occupation of his property.
- E. If a property owner is prevented from doing anything with its property, even though only for a limited period of time, this is a “taking”.

8. **The following are “Public Uses” and would allow the owner of the property to sue for just compensation if property is taken for the following projects.**
- A. Amusement Park
  - B. Grocery Store
  - C. Bible College
  - D. Rail-to-trail pathway
  - E. All of the above

**Answer = ???**

A grocery store would likely be the most likely to be considered a public use. An amusement park has a harder time justifying all persons would benefit from its construction, but if considered a spur for future economic development may fall into the public use (good) category. Private colleges have hit or miss efforts to be afforded the eminent domain power. The Iowa legislature recently passed legislation explicitly stating rails to trails are not public uses and government may not “take” property for this use.

**What is a Public Use?**

The early test for what is a “public use” was a broad one, examining whether the taking was for the public good. However, then the power of eminent domain was first delegated to private enterprises, the state courts developed a more narrow test, namely whether the property would be “used by the public.”

Essentially, the law is that a state may exercise the power of eminent domain whenever the purpose is within the state police power, and the federal government may exercise the power whenever the purpose of there exists a reasonable relationship to one of its enumerated or implied powers. For example, the US Supreme Court upheld the Hawaii Land Reform Act as being for a “public use” even though private owner land ended up being owned by other private persons.

9. **What are the police powers of government?**
- A. War, Coin Money, Safety, Space
  - B. Safety, Health, Transportation, Treaties with Indians and Foreign Countries
  - C. Welfare, Safety, Health and Morals
  - D. Nudity, Tobacco, Alcohol, Internet Pornography

**Answer = C**

The police powers have been crafted by court rulings which allow government to exercise considerable regulation in these areas. The power of eminent domain is easier to justify if the property being taken is reasonably related to the broad scope of the powers. Other answers are not “police powers” per se, but are expressly provided for in the constitution or implied in other government power. Moral issues regulation are the toughest for government to justify.

**10. “Just” compensation**

- A. Is always subject to judicial review
- B. Is the amount the owner of the taken property believes he is entitled to
- C. Is the amount the “taker” of the property believes the property is worth
- D. Is the amount the DOT beats into the head the owner and review board

**Answer = A**

Just Compensation and Procedural Requirements

By just compensation, the courts mean the current fair market value of the best reasonable use of the property at the time of the taking. It is the value to the owner, not the value to the taker, which is considered. Since this is a constitutional requirement, just compensation is always subject to judicial review; and in most cases the amount is actually required by law to be fixed by the court or jury.

To constitute due process of law in eminent domain proceedings the person whose property is “taken” must have an opportunity to be heard on

- (1) whether the “use” for which taken is public, and
- (2) whether the compensation is “just”.