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“Monmouth University/Gannett NJ Poll”

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THE POWER OF EMINENT DOMAIN

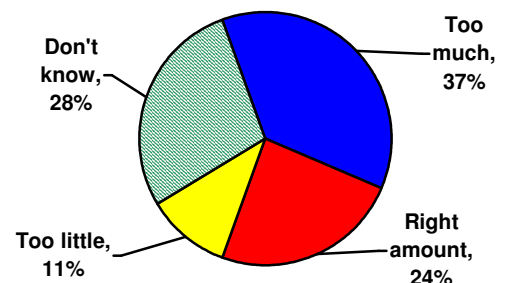
Acceptable uses are few say Garden State residents

Eminent domain has been making headlines recently, both nationally and in New Jersey. Eminent domain is the process by which towns take control of private property in order to use the land for purposes that benefit the “public good.” A recent U.S. Supreme Court ruling expanded the definition of public good to include increasing economic activity through private development. While many residents believe that there are situations when using eminent domain is acceptable, these instances are very limited. New Jerseyans would like to see a statewide standard on the definition of “blight” before property can be taken and support a temporary moratorium on eminent domain until its use can be examined.

According to the recent *Monmouth University/Gannett New Jersey Poll*, about 6-in-10 New Jerseyans have been following the issue of eminent domain, with about half that number (29%) paying a lot of attention to it. As may be expected, homeowners (68%) and residents age 50 and older (68%) are the most likely to be tuned in to this issue.

New Jerseyans are somewhat more likely to agree (47%) rather than disagree (39%) that there are times when it is alright to use eminent domain to rebuild an area. But they are divided on whether New Jersey towns have been using this power judiciously. While 37 percent say that eminent domain has been used too much in the state, a similar number say that eminent domain use is either at

Eminent Domain Use in New Jersey



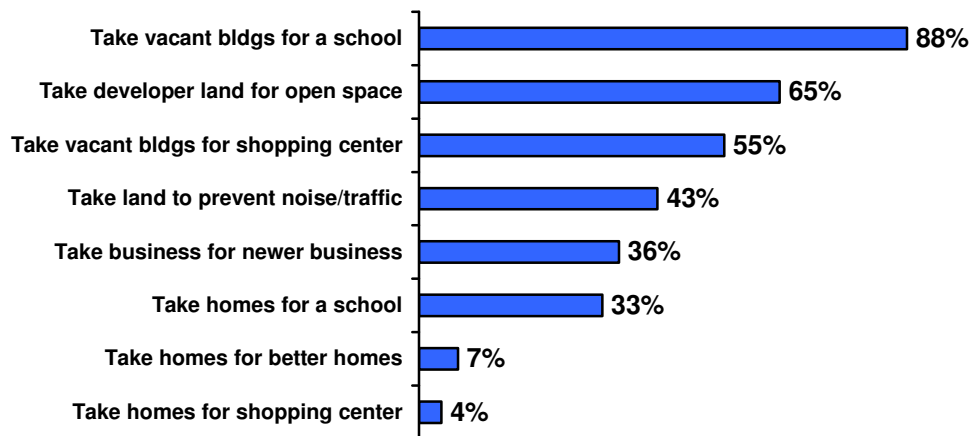
about the right amount (24%) or too little (11%). However, among those most aware of the issue, a decided majority or 55 percent feel that the eminent domain has been used excessively by Garden State municipalities.

“Residents find it difficult to make a single assessment on the issue of eminent domain, as it can be used in many different types of circumstances,” remarked Patrick Murray, director of the Monmouth University Polling Institute. “However, New Jerseyans seem to feel that such broad power in the hands of local officials can lead to misuse.”

The first step in implementing eminent domain is for a town council to declare an area to be blighted. A large majority of New Jerseyans, though, would like to see a standard statewide definition of what constitutes blight – 67 percent support this whereas only 24 percent would continue to let towns make this determination. Similarly, two-thirds of residents (66%) would support a temporary moratorium on all eminent domain powers in the state until appropriate uses can be decided upon. Only 22 percent oppose this.

Most New Jerseyans believe that when eminent domain is used to take private property for another use, local communities as well as the property owners themselves tend to come up with the short end of the stick. Nearly 2-in-3 New Jerseyans (65%) believe that people who have their homes or businesses taken through eminent domain are not fairly compensated for their asset loss. And an overwhelming 3-in-4 residents (76%) believe that private developers have benefited more than the community by recent uses of eminent domain in their own area. Only 15 percent feel that the public good of their local communities has come out on top in these cases.

Acceptable Uses of Eminent Domain



With eminent domain having so many applications, the poll asked New Jersey residents to evaluate the acceptability of eight possible examples. The public's willingness to apply eminent domain has to do with both the current condition of the property in question and its ultimate use for the public good.

Nearly 9-in-10 residents (88%) agree with a town taking vacant or run-down properties in order to build a school. Nearly two-thirds (65%) feel that taking land from a developer to preserve it as open space is an acceptable use. More than half (55%) also say the same about taking vacant or run-down buildings in order to build a shopping center.

Residents are divided on using eminent domain to take land from a business to keep it from expanding to prevent noise and traffic in their area. While 43 percent find this use acceptable, slightly more (48%) say it is not OK to use eminent domain for this purpose. Only about 1-in-3 New Jerseyans would give the nod to taking an active business that is surrounded by run-down buildings in order to build newer businesses (36%) or taking low value homes from people in order to build a school (33%). And only a handful of residents would give their approval to taking low value homes from people in order to build either higher value homes (7%) or a shopping center (4%).

Across all the questions asked in this poll, residents who have read or heard a lot about eminent domain are more negative toward its current application and more supportive of restrictions on its use. On the other hand, there is very little difference in the opinions of residents who live in different type of community environments – whether urban, older towns and suburbs, or newer growth areas of the state – even though these communities have experienced eminent domain use to varying extents.

This recent *Monmouth University/Gannett New Jersey Poll* was conducted by telephone with 800 New Jersey adults from September 21 to 26, 2005. This sample has a margin of error of ± 3.5 percent.

TABLES – MUP01-4 / October 5, 2005

The questions referred to in this release are as follows:

(Some rows may not add to 100% due to rounding.)*

- M1. How much have you read or heard about the issue of eminent domain – a lot, only a little, or nothing at all?

	<u>A lot</u>	<u>A little</u>	<u>Not at all</u>	<u>(n)</u>
September 2005 New Jersey Adults	29%	31%	40%	(800)
<u>Home Ownership</u>				
--Own	35	33	32	(592)
--Rent	14	26	60	(183)
<u>Age</u>				
--18-29	16	21	63	(93)
--30-49	28	34	37	(295)
--50-69	37	32	32	(271)
--70+	35	32	33	(125)
<u>Community Type</u>				
--Urban	24	21	56	(157)
--Stable Town/Suburb	27	37	35	(296)
--Growth Area	33	32	35	(332)

- M2. Eminent domain is the process by which towns take control of property after paying compensation in order to use the land for other purposes to benefit the public good. In general, do you agree or disagree that there are times when it is O.K. to use eminent domain to rebuild an area?

	<u>Agree</u>	<u>Disagree</u>	<u>Depends/ DK</u>	<u>(n)</u>
September 2005 New Jersey Adults	47%	39%	13%	(800)
<u>Home Ownership</u>				
--Own	46	40	14	(592)
--Rent	52	37	11	(183)
<u>Age</u>				
--18-29	64	31	5	(93)
--30-49	48	36	16	(295)
--50-69	45	43	12	(271)
--70+	27	54	19	(125)
<u>Community Type</u>				
--Urban	53	36	11	(157)
--Stable town/Suburb	46	38	16	(296)
--Growth Area	44	43	13	(332)
<u>Eminent Domain Awareness</u>				
--A lot	40	46	14	(282)
--A little	44	42	14	(255)
--None	55	32	13	(263)

M3. Do you think towns in New Jersey have been using eminent domain too much, not enough or about the right amount?

	<u>Too much</u>	<u>Not enough</u>	<u>Right amount</u>	<u>DK</u>	<u>(n)</u>
September 2005 New Jersey Adults	37%	11%	24%	28%	(800)
<u>Home Ownership</u>					
--Own	41	8	23	28	(592)
--Rent	27	17	27	30	(183)
<u>Age</u>					
--18-29	25	27	31	17	(93)
--30-49	38	9	27	26	(295)
--50-69	41	5	22	32	(271)
--70+	42	5	12	41	(125)
<u>Community Type</u>					
--Urban	33	17	21	29	(157)
--Stable Town/Suburb	36	10	27	27	(296)
--Growth Area	39	9	25	28	(332)
<u>Eminent Domain Awareness</u>					
--A lot	55	6	21	17	(282)
--A little	36	9	29	26	(255)
--None	24	16	24	37	(263)

M4. Thinking about recent uses of eminent domain in your area. Who do you think benefits more in the end – the local communities or private developers?

	<u>Local Communities</u>	<u>Private Developers</u>	<u>Depends/ DK</u>	<u>(n)</u>
September 2005 New Jersey Adults	15%	76%	10%	(800)
<u>Home Ownership</u>				
--Own	14	76	9	(592)
--Rent	15	75	11	(183)
<u>Age</u>				
--18-29	22	71	8	(93)
--30-49	15	77	8	(295)
--50-69	13	76	11	(271)
--70+	9	75	16	(125)
<u>Community Type</u>				
--Urban	14	78	8	(157)
--Stable Town/Suburb	15	73	12	(296)
--Growth Area	15	77	8	(332)
<u>Eminent Domain Awareness</u>				
--A lot	14	81	5	(282)
--A little	20	72	8	(255)
--None	11	74	14	(263)

M5. When an area is taken over by eminent domain, do you think that property owners are usually given a fair value for their homes and businesses or not?

	<u>Fair Value</u>	<u>Not Fair Value</u>	<u>DK</u>	<u>(n)</u>
September 2005 New Jersey Adults	18%	65%	17%	(800)
<u>Home Ownership</u>				
--Own	19	64	18	(592)
--Rent	19	65	16	(183)
<u>Age</u>				
--18-29	28	63	9	(93)
--30-49	14	69	17	(295)
--50-69	19	64	17	(271)
--70+	16	58	26	(125)
<u>Community Type</u>				
--Urban	14	67	19	(157)
--Stable Town/Suburb	22	62	16	(296)
--Growth Area	18	66	16	(332)
<u>Eminent Domain Awareness</u>				
--A lot	15	75	10	(282)
--little	18	63	19	(255)
--None	21	59	20	(263)

M6. Eminent domain can be used after a town council or planning board declares an area to be blighted. Should individual towns be able to decide on their own if an area is blighted or should there be some statewide standard they have to follow?

	<u>Towns Decide</u>	<u>Statewide Standard</u>	<u>DK</u>	<u>(n)</u>
September 2005 New Jersey Adults	24%	67%	9%	(800)
<u>Home Ownership</u>				
--Own	20	73	7	(592)
--Rent	32	53	14	(183)
<u>Age</u>				
--18-29	37	59	5	(93)
--30-49	24	68	8	(295)
--50-69	21	69	11	(271)
--70+	15	71	15	(125)
<u>Community Type</u>				
--Urban	28	57	14	(157)
--Stable Town/Suburb	25	67	8	(296)
--Growth Area	21	72	6	(332)
<u>Eminent Domain Awareness</u>				
--A lot	15	78	7	(282)
--A little	24	68	8	(255)
--None	32	57	11	(263)

M7. Some people have called for a temporary moratorium on eminent domain in the state until appropriate uses can be determined even though this might stop some important projects from going forward. Would you support or oppose a temporary statewide moratorium on eminent domain?

	<u>Support</u>	<u>Oppose</u>	<u>DK</u>	<u>(n)</u>
September 2005 New Jersey Adults	66%	22%	12%	(800)
<u>Home Ownership</u>				
--Own	70	21	9	(592)
--Rent	59	21	20	(183)
<u>Age</u>				
--18-29	59	34	7	(93)
--30-49	65	23	13	(295)
--50-69	74	14	11	(271)
--70+	66	13	21	(125)
<u>Community Type</u>				
--Urban	67	15	18	(157)
--Stable Town/Suburb	62	25	12	(296)
--Growth Area	69	23	8	(332)
<u>Eminent Domain Awareness</u>				
--A lot	80	12	8	(282)
--A little	71	19	9	(255)
--None	53	30	17	(263)

M8. I'm going to read you some situations where eminent domain might be used. Please tell me whether you think using eminent domain is O.K. in each case. Is it O.K. or not O.K. to use eminent domain to [READ ITEM]? [*QUESTION ASKED OF HALF THE SAMPLE*]

September 2005 New Jersey Adults	<u>OK</u>	<u>Not OK</u>	<u>Depends/ DK</u>	<u>(n)</u>
A. Take land from a developer in order to preserve it as open space	65%	28%	8%	(396)
B. Take vacant and run-down buildings in order to build a school	88%	7%	4%	(396)
C. Take vacant and run-down buildings in order to build a shopping center	55%	34%	11%	(396)
D. Take an active business that is surrounded by run-down buildings in order to build newer businesses	36%	54%	10%	(396)
E. Take low value homes from people in order to build a school	33%	55%	11%	(404)
F. Take low value homes from people in order to build a shopping center	4%	90%	7%	(404)
G. Take low value homes from people in order to build higher value homes	7%	86%	8%	(404)
H. Take land from a business to keep it from expanding in order to prevent more noise and traffic in the area	43%	48%	8%	(404)

M9. Say a property owner wants to donate land in order to preserve it as open space. However, the town feels it would be better for the public good to buy the land and then build on it. Whose plan should be followed – the property owner’s or the town’s? [*QUESTION ASKED OF HALF THE SAMPLE*]

	<u>Property Owner</u>	<u>Town</u>	<u>Depends/ DK</u>	<u>(n)</u>
September 2005 New Jersey Adults	73%	16%	12%	(404)

Community Type
 For this poll, New Jersey municipalities have been grouped into the following categories based on population size and density:

Urban – Any municipality with a population of 25,000 or more and a population density over 4,000 people per square mile or a population density over 10,000 people per square mile.

Stable Towns/Suburb – Any non-urban or non-rural municipality that had less than 10% population growth from 1990 to 2000. Also some older established towns in Bergen, Camden, Essex, Gloucester, Monmouth, Morris, Passaic, Somerset, and Union counties are grouped here.

Growth Area – Any municipality that experienced 10% or greater growth from 1990 to 2000 as well as remaining rural areas of the state.

Results for this *Monmouth University/Gannett NJ Poll* are based on telephone interviews conducted September 21-26, 2005 with a statewide random sample of 800 adults, age 18 and older. For results based on the total sample, one can say with 95% confidence that the error attributable to sampling has a maximum margin of plus or minus 3.5 percentage points. Sampling error increases as the sample size decreases, so statements based on various population subgroups, such as separate figures reported by gender or party identification, are subject to more error than are statements based on the total sample. In addition to sampling error, one should bear in mind that question wording and practical difficulties in conducting surveys can introduce error or bias into the findings of opinion polls.

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