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Contra Costa Times editorial: Court decision is a victory for private property rights

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IN 2005, WHEN the U.S. Supreme Court found that it was constitutionally acceptable for governments to take private property through eminent domain and transfer it to other private owners, we strongly objected.

The 5-4 *Kelo v. New London, Conn.*, ruling greatly expanded the interpretation of the Fifth Amendment's provision for using eminent domain for taking property for "public use." The decision allows eminent domain to be used for any economic benefit to government, including higher tax revenues and job creation.

The court made it far too easy for a powerful, politically connected developer to persuade a municipal government to abuse private property rights to increase tax revenue, or create some other perceived public benefit.

Fortunately, there was a way for California and other states to obtain relief from the court's ruling by restricting its use with legislation, which we advised.

In 2007, Senate Bill 1206 took effect, significantly tightening the definition of blight, which had been too broadly used to justify eminent domain proceedings.

Under SB1206, properties cannot be seized by eminent domain unless they are documented to be truly blighted. Although the law should have been more restrictive, it is an important step in the right direction.

But the real test of its effectiveness required litigation by private citizens against a government

entity that tried to take their

property using eminent domain.

Last month, a San Diego judge ruled against the National City Redevelopment Agency for running roughshod over private property owners. The agency sought to use eminent domain to seize what it claimed was blighted property to make way for a 24-story condominium building.

However, Superior Court Judge Steven R. Denton, using the new law, ruled that the property was hardly blighted and was not subject to eminent domain.

In fact, the property in question in the San Diego suburb was in decent condition and was being used productively by its owners.

Denton's strong detailed ruling should be a warning to local officials throughout California that "blight" is not a fuzzy concept that can be abused to justify eminent domain proceedings whenever a redevelopment agency wants to build a project.

The decision, we trust, will make it more difficult for redevelopment agencies to unfairly take private property without first establishing that it is truly blighted.

That is good news for the protection of private property rights, which had been threatened by the overly broad *Kelo* decision.

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