

Tina Ramirez: California, don't run roughshod over houses of worship

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Nearly a decade ago the City of Cypress, acting through its local redevelopment agency or "RDA" tried to declare Cottonwood Christian Center's land "blighted." Why? To use eminent domain proceedings to acquire the property and sell it to Costco. Had the city's gambit of taking land from churches and giving it to Costco succeeded, no religious organization in America would be safe from arbitrary government intrusion. But unfortunately the fight is by no means over. Zoning boards, city councils and other local governments continue to use the "blight" designation to threaten religious organizations throughout the country.

Cottonwood's case was one of the first cases challenging an RDA's use of eminent domain under the Religious Land Use and Institutionalized Persons Act of 2000, a law passed to protect religious organizations from being discriminated against or burdened in their use of land by cities, counties, or other local governments. In 2002, the city of Cypress condemned 18 acres that belonged to the church in order to build a Costco for "economic development". In effect, the tax-exempt church was discriminated against in its use of its land because Costco offered the potential of increased sales and property tax revenues for the city. When Judge David O. Carter issued a preliminary ruling on the case that found in the church's favor, the city backed down and relinquished its claims to Cottonwood's land. Judge Carter stated, "Preventing a church from building a worship site fundamentally inhibits its ability to practice its religion."

Despite the landmark decision reached in the Cottonwood case, religious associations and others affected by eminent domain throughout the country remain in a defensive position. RLUIPA provided one way for religious associations to defend themselves, but it did not destroy the threat which remains. Since Cottonwood, the Becket Fund has defended numerous religious organizations throughout the country representing various religious traditions that continue to be threatened by local governments that believe the "public interest" is better served by increasing tax revenue than allowing for the free expression of religious faith.

There are also conflicts of interest. Board members of RDAs are typically members of the local city council who often provide land to developers that support their political campaigns and chances of getting re-elected. As such, RDAs effectively serve as czars that can determine what society should value – i.e. revenue-producing entities for their friends, but not religious structures. The result is that there is a perverse incentive for local governments to trade the fundamental right to worship -- be it in a Christian church, a Jewish synagogue, or a Hindu temple -- for tax revenues.

Right now the California Legislature is considering legislation proposed by Governor Jerry Brown to eliminate the state's 425 RDAs. This move would likely create benefits for religious freedom by eliminating government agencies that have no interest in preserving "uneconomical" land uses like churches and synagogues.

So when California's state legislators take up Senate Bill 77 and Assembly Bill 101 next week, they should consider not just the claimed need for revenue from places like a Costco shopping center or an auto-mall. They should also take into account the ability of ordinary people--of all faiths-- to worship in their communities.

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