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*From the Los Angeles Times*

## Can California curb land grabs?

**Municipal officials have prevented the state from restricting eminent domain powers, but a proposed ballot measure could do the trick.**

By Steven Malanga

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LAST JUNE, the U.S. Supreme Court, in its now-famous *Kelo vs. New London* decision, deemed it constitutional for government to take land from private citizens not just for use in traditional public projects like building schools and roads but to spur economic development projects — for instance, seizing homes in order to clear land for a mall or a new townhouse development.

Responding to the outcry over the decision, Justice John Paul Stevens later said that although the Constitution allowed land seizures for development projects, if states wanted to ban or limit the practice, they could pass laws restricting local government's powers.

But that's proving easier said than done.

In California, where about 380 municipalities have redevelopment agencies with eminent domain powers, a law that would have banned the use of eminent domain in economic development projects faced intense opposition from municipal officials throughout the state and never even made it out of legislative committee last summer. Nor is what happened in California unusual.

In *Kelo's* wake, dozens of state lawmakers across the country promised to introduce bills restricting eminent domain. But most of the proposed legislation has wound up stuck in committee, stalled in hearings or tabled while officials "study" the issue. The dubious argument in favor of allowing municipalities to take people's property and hand it over to private interests is that it will boost economic development and buoy tax rolls.

In California, eminent domain foes, including state Sen. Tom McClintock (R-Thousand Oaks) and the Howard Jarvis Taxpayers Assn., are gathering signatures for a November ballot initiative that would amend California's Constitution to include the limits sought by last summer's stalled legislation. Backers include the Municipal Officials for Redevelopment Reform, or MORR, a California organization led by Orange County Supervisor Chris Norby seeking to reduce the power of state redevelopment agencies.

A MORR study notes that the state's redevelopment agencies consume 10% of all state tax dollars, have racked up about \$56 billion in debt and have used eminent domain to gobble up privately owned land for hotels, malls and big-box retailers. A redevelopment agency in Cypress even tried to seize land from a church for a Costco store, but it backed off after the church sued; instead, the city accepted a land swap with the church. Not only can municipalities create these redevelopment agencies without direct voter approval, the agencies can incur debt without a thumbs-up from voters.

Although California's current eminent domain law, like those of many states, limits takings to "blighted" areas, its language

is so vague on what constitutes blight that creative local officials have designated more than 1 million acres as eligible for seizure — including land in some flourishing communities, according to MORR. Most recently, for instance, the San Diego Model School Development Agency pushed a controversial plan to grab 188 homes in the thriving City Heights neighborhood because the agency wanted to build 509 townhouses, condos and apartments on the land.

Government ostensibly takes private property to further economic development. But a 1998 study by the Public Policy Institute of California found that communities in the state that have engaged in extensive government-sponsored redevelopment have reaped no real economic benefits compared with municipalities that haven't done so. Government officials, it turns out, often misread the marketplace and promote projects that fail to deliver the promised payback.

Polls consistently have shown that 80% to 90% of Americans favor curtailing eminent domain powers. Still, in California many municipal officials as well as development agencies oppose the proposed constitutional amendment. Proponents anticipate that well-funded real estate and development groups, as well as businesses such as big-box stores and hotels that frequently win prime sites from local governments through eminent domain, will also fight the initiative.

Much is at stake. A successful ballot initiative in the nation's largest state, where eminent domain for economic development has become so widespread, could jump-start similar legislation across the country.

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