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California's biggest, nastiest slumlord



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What would you do if you lived next door to an irresponsible property owner who allowed his vacant lot to fill up with dangerous debris, or allowed hobos and drug dealers to hang out there, or who wantonly violated city and state health and safety codes?

What if you rented a house or apartment from that same landlord, and he refused to do anything to fix the leaky roof, the spreading black mold, the rodent infestation and other downright dangerous conditions?

You would call on the government to impose fines and sanctions on that miscreant, right? But what if the government was that slumlord? What if the government told you that it didn't need to follow its own rules and laws and that it could not be prosecuted for anything under "sovereign immunity" – the principle that individuals cannot sue the government.

Beginning last month, Register reporter Kimberly Kindy has produced a compelling series of articles about the California Department of Transportation, Caltrans. The articles document the way "Caltrans used eminent domain to buy thousands of homes and businesses it didn't need, holding onto them for decades. ... This is a story about how the nation's largest freeway builder neglected its massive land holdings, creating blight and despair. It's about how Caltrans kept properties off the tax rolls, draining county coffers of tens of millions of dollars in lost revenue. It's about abuse of power."

It's ironic that state officials won't miss an opportunity to criticize and regulate private apartment owners and developers, yet for decades have ignored that the state government is California's biggest and nastiest slumlord.

In 1972, the state's Little Hoover Commission conducted a lengthy investigation along with public hearings about Caltrans' mismanagement of publicly owned property. Nothing came of it. In 1982, Kindy reported, the state's auditor general also held an inquiry into the problem and made suggestions. Nothing ever happened. In 1985, the Bureau of State Audits produced a report critical of the agency's sale and repair of homes that it acquired. Nothing came of that, or of another report by the same bureau in 2001. In 2003, the Register reported that the Legislature introduced seven bills to force Caltrans to track its properties better, but Caltrans and other state agencies killed those bills.

Earlier this month, Assemblyman Todd Spitzer, R-Orange, and Supervisor Chris Norby sponsored hearings on the Caltrans abuses, in response to the Register investigation. As Spitzer told me, the agency's head, Will Kempton, boasted that the agency has fixed most of the problems, and has a real-estate advisory team in place to help manage and dispose of the thousands of unnecessary and poorly managed properties that Caltrans owns.

But Spitzer argues that the agency doesn't even know what it owns. At the hearing, he held up a spreadsheet of surplus properties – but the Caltrans spreadsheet doesn't even match the spreadsheet put together by the California Transportation Commission. Call it clueless in Sacramento.

We have an agency that has used eminent domain to amass large tracts of surplus property, that has no use of the property and no good records of what it owns. The property is mostly in ill repair, which causes crime and blight in surrounding areas. The agency has shown no serious interest in disposing of the property, is rude and even hostile to nearby owners who complain about the dreadful conditions. When the agency does get involved in improving properties, it wastes massive amounts of tax dollars – such as Caltrans' multimillion-dollar project to fix up historic bungalows in Pasadena. There it spent so much on the fix-up, that it can't rent out the properties at the planned rental rates, thus leaving some of them vacant and causing problems in the surrounding neighborhood, according to Register reports.

Spitzer calls Caltrans a "rogue agency" because, unlike every other state agency, it does not have to provide an annual report of its properties to the Department of General Services, and it has its own in-house legal staff, rather than using the legal staff of the Attorney General's Office. The result is that Caltrans attorneys have every incentive to delay reform, he said, and there's no outside oversight.

At the hearing, Kempton pledged reform and agreed that Caltrans should be held accountable to local and state laws. But Spitzer said that the agency's lawyers recently invoked sovereign immunity so that Caltrans would not be subject to the law.

Clearly, Caltrans is saying whatever it needs to say to divert attention from its grievous abuses and mismanagement of public property. Spitzer wants the governor, who included Caltrans reform in his mostly abandoned plan to reform state government, to take an active role in this matter. That's a good idea. So are his plans, as detailed in the Register, to introduce legislation that would shift control of Caltrans' land to general services, that would require Caltrans to pay taxes on its long-term holdings, that would create an ombudsman to oversee resident complaints and to require the agency to resell unused property to original owners if the road projects never come to pass.

But there's a broader point that needs to be made.

Whenever there is any problem – from health care to education to infrastructure – a preponderance of voices rings out with the same old answer: We need government to fix this problem. This bipartisan putsch for more government has become so constant, so noncontroversial, so bipartisan, that those of us who call for private solutions to problems are typically depicted as annoying kooks peddling the equivalent of the flat-Earth theory.

I call it the DMV-ization of America, reflecting the inconvenience faced by people who go to that notoriously consumer-unfriendly government agency. Actually, I need to rename it the Caltrans-ization of America. But whatever one calls it, the problem is thus: By their nature, government agencies are poorly run. They have no bottom-line measurement of success or failure (i.e., profit or loss), and because they operate on force (i.e., "wait in line to pay this money or go to jail") rather than the persuasion of the marketplace ("we'll offer you an even better product at a lower price with more conveniences if you buy it here rather than at our competitor's store"), there is little concern for the customer. Yet in calling for more government involvement, regulation and "solutions," Americans are, perhaps unwittingly, calling for more of their lives to be subject to agencies such as Caltrans.

No private developer can operate like Caltrans. Only government can take property by eminent domain (although unfortunately many cities will take property this way and give it to developers). Can you imagine the Irvine Company or any other developer losing track of its inventory? If a private developer ignores its vacant lots and causes blight around it, code enforcers and myriad officials will quickly fine and punish him. In the private sector, when neighbors want to buy surplus properties, property owners have much incentive to at least consider a sale. Who would rather sit on land for decades rather than sell it for a profit?

Only a government agency, of course. Now, Caltrans has a legitimately public function. Yet even in building roads and freeways, the government is incompetent, wasteful and ill-tempered. So why again do many Americans want this kind of agency to run our health care system, and to "solve" every other problem that they can think of?

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