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Daniel Weintraub: Protecting property not partisan issue

By Daniel Weintraub -- Bee Columnist

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The California Democratic Party has quietly thrown its weight behind a movement to stop the government from using eminent domain to buy people's property against their will and then handing it over to another private owner.

The campaign, which has been picking up steam nationwide since a Supreme Court decision on the issue last year, is more often associated with Republicans, who tend to be more concerned with protecting property rights. Democrats in the Legislature shelved legislation last summer that sought to tighten restrictions on the use of eminent domain in California.

But the Democratic Party's executive board, meeting in Manhattan Beach last month, endorsed a resolution that put the party squarely on record opposing the use of eminent domain for economic development or to increase tax revenue.

The resolution says eminent domain should be limited to "reasonable public uses" and not used for taking "private property without the consent of the owner and conveying it from one private person to another." The statement was brought to party leaders by two Northern California women who have fought redevelopment in Daly City, in the shadow of San Francisco, and are trying to qualify an initiative for the ballot that would restrict the use of eminent domain.

"We should own this issue," said Annette Hipona, whose family runs an automobile repair shop in Daly City's redevelopment district. "Democrats protect real people."

Although Hipona's family business has never been directly threatened, she believes California cities, including her own, have misused eminent domain to force out homeowners and small businesses that stand in the way of commercial development. State law already limits the use of eminent domain for economic development to land that has been declared blighted. But many opponents of the practice insist that the definition of blight has been expanded to the point that it

has become almost meaningless.

Hipona and Daly City Councilwoman Judith Christensen have been working with the Coalition for Redevelopment Reform to prepare an initiative that they hope to qualify for the November ballot. It would ban the use of eminent domain for private purposes except for utilities, to remove an immediate threat to public health and safety, or for incidental uses such as the leasing out of a corner of a public building to a private retail establishment.

The measure is similar to a proposal by state Sen. Tom McClintock, a Simi Valley Republican who is a leader in California's property rights movement. McClintock's proposal would allow the government to use eminent domain to take private property only for public use and would require any government agency that takes private property to retain ownership of it or lease it to a private entity regulated by the Public Utilities Commission.

"I'm not surprised," McClintock said when told of the Democratic Party action. "This is not a Republican issue or a Democrat issue. It's an American issue. Rich people should not be allowed to steal poor people's homes. It's that simple."

Hipona said she considered joining forces with McClintock but backed away when the senator submitted a number of different versions of his proposal as possible initiatives, including one that would also ban "regulatory takings" - when the government adopts rules that limit the use of private property to the point that its value is substantially reduced.

It also seems clear that the Democratic Party would be reluctant to back an initiative sponsored by McClintock, the likely Republican nominee for lieutenant governor this year.

John Hanna, an Orange County lawyer, community college trustee and co-chairman of the Democratic Party's resolutions committee, said he supported the resolution because he didn't want to see McClintock turn the issue into a Republican crusade and leave the Democrats behind.

"Here's an issue that affects people who live in the inner city where this is going to happen," Hanna said. "They are Democrats; they are people of color. It may not be popular in some of the liberal circles to talk about, but this is an important Democratic constituency."

Neither Hipona nor McClintock has demonstrated the financial backing yet to make a serious bid at collecting the signatures necessary to put their measures on the ballot. But private polling reportedly shows that if one of these proposals ever makes it to the voters, it will probably pass overwhelmingly.

Supporters of eminent domain - mainly city officials and real estate developers - are lucky that the Republican senator and the Democratic activists aren't working together. As a team they would be unstoppable.

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