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Dan Walters: Eminent domain bills are stalled - except one for casino tribe

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Published 2:15 am PDT Friday, September 16, 2005

When the U.S. Supreme Court ruled this summer that governments could seize homes and other property to facilitate private development projects, it touched off a political firestorm throughout the nation - including California - and fueled demands for new barriers to misuse of governmental "eminent domain" powers.

California's version of the debate centered on the aggressive use of eminent domain - or the threat to use it - by city redevelopment agencies to assemble land for hotels, auto malls, big box retailers and other projects.

Although California law says that redevelopment powers can be invoked only to combat "blight," local officials have been quite creative in their application of the term. And when the Supreme Court declared that "there is no basis for exempting economic development from our traditionally broad understanding of public purposes," it seemingly validated those aggressive redevelopment efforts.

The resistance to aggressive misuse of eminent domain is one of those rare issues that cross usually stark ideological lines. Conservative property rights advocates and liberal activists for the poor are equally concerned about seizing homes and small businesses and bulldozing them on behalf of politically favored developers.

It's a little known fact, for example, that Delores Huerta, a much-venerated leader of the United Farm Workers union, originally became involved in social and political causes by resisting a redevelopment project that destroyed an entire neighborhood of working-class homes and businesses on the edge of downtown Stockton.

Tom McClintock, a Republican state senator from Thousand Oaks and a leading conservative political figure, took up the eminent domain crusade in the Legislature after the Supreme Court's ruling, saying that it "breaks the social compact that gives government its legitimacy and opened a new era when the rich and powerful can use government to seize property of ordinary citizens for private gain." He and others introduced bills, including constitutional amendments, to restrict such seizures to purely public projects.

Predictably, local government and redevelopment officials reacted with alarm that eminent domain could be severely restricted. The California Redevelopment Association and other advocates geared up to kill the measures and in the closing days of the legislative session, Democratic leaders ginned up a strategy to cool off the anti-eminent domain fervor. They unveiled legislation that would place a two-year moratorium on the seizure of private homes (but not commercial property), and authorize a study of the practice, thus giving their members a chance, or so it seemed, to side with the anti-eminent domain sentiment without doing any real damage to redevelopment agencies.

Quietly, however, the moratorium bills were themselves put on the shelf as the session ended - with Democrats blaming Republicans. "With every vote, they tried to derail this prudent response," said Sen. Christine Kehoe, D-San Diego, who carried one of the moratorium bills.

Kehoe's finger-pointing, however, was more than a little disingenuous since the stalled bills required only simple majority votes and thus needed no Republicans to go along. Clearly, this was a Democratic action, not a Republican one, perhaps just a feint to pretend to do something about

eminent domain without actually doing anything to upset the apple cart.

Ironically, the only eminent domain-related bill to reach Gov. Arnold Schwarzenegger's desk was a measure that allows the Rumsey Band of Wintun Indians, which operates the Cache Creek Casino in Yolo County, to join a joint powers consortium with local governments and the University of California to manage the 17,300-acre Conaway Ranch. While the county would purchase the land - or acquire it through eminent domain - the Rumsey Band has agreed to help finance the transaction.

Whether the tribe's interest in the Conaway Ranch is just an expression of civic involvement, or it has some other, more commercial interest is yet to be discovered. But allowing a casino-owning tribe to even indirectly participate in an eminent domain action sets a potentially worrisome precedent.

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