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Eminent domain initiative could echo Prop. 13

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Ventura County Star
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If you were too young or not around back then and you're tired of hearing old-timers talk about California's great political earthquake of 1978, maybe it's time to strap down the water heater.

There's a new rumbling along the state's ballot-initiative fault line that, before it's over, could mimic the Proposition 13 quake of '78.

Just as before, it involves private property. Just as before, it involves distrust of government. Just as before, it could unite every county, city and school district in opposition, potentially joined by big business and law enforcement. Just as before, on the other side will be conservatives devoted to limiting the power of government.

Proponents this week submitted 1 million signatures to qualify an initiative for the November ballot that seeks to strip government agencies of their power to purchase private property from an unwilling seller and then sell or lease it back for a different private use.

The "Protect Our Homes" initiative was motivated by the U.S. Supreme Court's 2005 Kelo v. New London decision, in which the court held that the city of New London, Conn., was within its rights to condemn a half-dozen homes in its effort to assemble sufficient land for a new manufacturing complex.

Although the decision broke no new ground _ the practice had been in use for decades in the redevelopment of blighted and crime-ridden neighborhoods _ the facts of this case caused an outcry.

These homes weren't dilapidated. The neighborhood wasn't crumbling. The city fathers, in their zeal to promote economic development, simply purchased the land against the homeowners' wishes and turned the property over to an international pharmaceutical conglomerate.

This, many observers believed, was an assault on private property rights. It was evidence, they asserted, that the power of eminent domain had gone too far.

In California, when an emotional issue arises, an initiative can't be far behind.

With \$1.5 million from an advocacy group funded by New York developer Howie Rich, backers were able to pay \$1 per signature to get a million Californians to sign on the dotted line. Signatures were submitted Monday; given the high number of signatures, it is virtually certain to qualify.

The measure would require that eminent domain could only be used in situations in which a government agency intends to acquire and maintain the property for public use, such as a park, school or freeway.

It would also redefine much of existing law governing eminent domain and offer a more generous definition of the "fair market value" a government agency must pay.

The League of California Cities immediately sounded an alarm. Its executive director, Chris McKenzie, called it "an assault on our environment and taxpayers dressed up as eminent domain reform."

WOMEN BUYERS



JUNE 2006

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League spokeswoman Megan Taylor expanded on that when I talked to her Tuesday. She said the initiative would broaden the definition of "taking" and require government agencies to compensate homeowners if they make a zoning decision that runs contrary to a landowner's desire for future use of his property, or if they impose environment regulations that might restrict a property's later use.

She also said it would outlaw the public benefits from classic cases of redevelopment, such as when a city condemns a drug-infested apartment building and then turns it over to an owner who "will make that property a safe place to live."

Proponents will tell emotional stories, too _ stories of family-owned businesses that have been run out of town to make way for a Home Depot, or of families dislocated to grease the skids for a new Costco.

Kevin Spillane, the political strategist handling the initiative campaign, said he expects a vigorous fight from the political and economic establishment. Although most of the initiative's backers, including Sen. Tom McClintock of Thousand Oaks, are Republican, Spillane said the campaign will be nonpartisan.

"We're going to have a lot of Republican big-business interests lined up against us," he said. "This is going to be classic David versus Goliath because most of the people who are the victims of eminent-domain abuse are minorities, immigrants, working-class people and mom and pop businesses."

Proponents will argue that California's redevelopment law, because it requires a finding that blight exists, is much more protective of property rights than was Connecticut's. "We're not in a Kelo situation here," Taylor said.

The fault lines are already beginning to form. Voters will be pushed from each side.

Which will they believe is the greater threat: the government knocking on their door with an eviction notice, or libertarians who want to take away the government's ability to reshape a neighborhood for the public good?

We'll find out in the fall, after a considerable amount of rumbling.

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