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Tuesday, May 22, 2007

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Last modified Monday, May 21, 2007 8:54 PM PDT

New eminent domain proposal could be headed to the ballot

By: EDWARD SIFUENTES - Staff Writer

Six months after a group of Republicans and government leaders failed to pass a voter initiative to keep governments from taking land for private use, a new group -- this time of homeowners, city officials and business owners -- is pushing for similar reforms.

Their effort to reform eminent domain laws could reach California voters next year.

Assemblyman Hector De La Torre, D-South Gate, introduced a bill Monday for a ballot initiative that, if approved by voters, would amend the state constitution to prohibit state and local governments from taking homes or small businesses for private developers through eminent domain.

In November, state voters turned down a different initiative backed by a different coalition, including the state Republican party and some county, city and education leaders.

Eminent domain is the long-held government power to acquire private property for projects that promote the public good, such as schools and roads. The process generally requires several steps, including several hearings and payment of fair market value.

Proponents of last year's Proposition 90 said the measure would ensure that governments could not take their land, homes or property by abusing eminent domain laws. But opponents said it went way beyond eminent domain reform, and would threaten the ability of cities and counties to perform their land-use planning duties.

De La Torre said his new bill was in response to a court decision two years ago that frightened many property owners.

In the "Kelo" decision, the U.S. Supreme Court said that a government could tear down homes and transfer the land to private developers to build shopping malls or other private projects.

"This (bill) means that government would no longer be able to take your home away to give it to a developer," De La Torre said in a telephone press conference from Sacramento.

Several of the groups that were on hand for the announcement supporting the measure opposed last years' Prop. 90, including Democratic lawmakers, the California League of Cities, California State Association of Counties, labor unions and environmental groups.

Opponents said the new measure does not go far enough to protect properties.

"This is just an attempt to placate the voters who were outraged by the Kelo decision," said Assemblywoman Mimi Walters, R-Oceanside, who supported Prop. 90.

Walters said De La Torre's proposal does not protect agricultural land, churches and some other types of properties. She introduced a different eminent domain proposal, Assembly Constitutional Amendment 2, in December.

Walters' bill would permit private property to be "taken only for public use" and "only when just compensation has been

paid to the owner of the property." The measure would also prohibit government from using eminent domain to acquire any property if it will be transferred to a private developer.

In North County, several cities have used or threatened to use eminent domain to acquire land for public projects, such as roads and schools. For example, the Encinitas City Council in 2005 voted to use eminent domain to acquire a 330-foot-long, 26-foot-wide strip of right-of-way to widen Olivenhain Road.

Two months earlier, the city council limited its own eminent domain powers by restricting the use of eminent domain for private development without the approval of two-thirds of Encinitas voters.

On the other hand, the Escondido City Council approved the use of eminent domain in a project that enhanced a private project. The council voted to acquire 1.4 acres at 700 W. Mission Ave. that includes the El Mexicano Taco Shop to help developer Sunset Centers build a Lowe's and 164 condominiums where a K-Mart and mini-golf course once stood.

Escondido City Manager Clay Phillips said he was not aware of the De La Torre proposal. He said the city took no position on Prop. 90, except as a member of the California League of Cities, which opposed the measure.

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