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Other view: Redevelop eminent domain

By Timothy Sandefur -- Special To The Bee
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Last summer, the Supreme Court shocked many by ruling in *Kelo v. city of New London* that local governments may seize homes and businesses, and transfer the property to private developers to build shopping centers, hotels or other for-profit projects.

The outcry over the ruling led lawmakers in more than 40 states to propose limits on eminent domain. In California, several bills in the Legislature and two proposed ballot propositions being circulated for signatures address the threat to homes, businesses, churches, farms and other property. Yet to this day, Gov. Arnold Schwarzenegger has said nothing about this issue.

Although the Constitution allows government to seize property only for "public use," the *Kelo* ruling declared that this phrase really means "public benefit." Therefore, whenever bureaucrats think that seizing property and giving it to someone else will create jobs, increase the local tax base or benefit the public in some other way, they can do so through the power of eminent domain. Victims of eminent domain are entitled to compensation, but they often receive far less than the property is worth.

California is one of the nation's leading abusers of eminent domain. Between 1998 and 2003, the state seized 233 properties and sold or leased it to private developers. California's laws define terms such as "blight" so vaguely that bureaucrats can seize virtually any property they wish in the service of powerful developers.

Consider, for example, the Gran Havana Cigar Factory, an upscale store in San Diego's fashionable Gaslamp Quarter. The owner, Ahmad Mesdaq, a refugee who fled the Soviet invasion of his native Afghanistan, even hosted the governor on two cigar-buying excursions. But last year city officials, claiming it was in a "blighted area," bulldozed Mesdaq's store so that a private developer could build a hotel.

Contrary to the claims of redevelopment proponents, the power to seize "blighted" property is not just a tool for eliminating slums or environmental hazards. A 1998 report by the Public Policy Institute of California noted that redevelopment is a multibillion-dollar industry in California, and that one-fifth of the state's redevelopment projects at that time actually consisted of vacant land. "Such projects," the report concluded, "appear to have development rather than redevelopment as their prime purpose."

Government is an incompetent economist and a dangerous real estate agent. Major projects don't need government involvement: Disneyland was built without eminent domain; so was Orange County's 91 freeway. Seattle recently redeveloped a major part of its downtown without using eminent domain.

Nor is government good at handling property once it seizes it. As The Bee reported the other day, Sacramento's own Housing and Redevelopment Agency is among the slumlords of Oak Park; almost half of the city-owned single-family houses there are vacant and boarded up.

Given such repeated failures, it's time for officials to admit that they are no good at planning an economy, and when they try, they usually commit terrible injustices against people such as Mesdaq.

Schwarzenegger came into office clear-eyed about government's inability to manage every aspect of the economy. He acknowledged that redevelopment agencies were overstepping their authority and trampling on private property rights. He promised to govern for the people, not the bureaucrats. Yet he remains silent about the bills in the Legislature and the ballot proposals that would rein in eminent domain abuse. It's time he spoke out.

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