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Don't KO the kids with bogus blight

By **Jeff Rowes**
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In 1991, Carlos Barragan and his son, Carlos Jr., were tired of seeing promising young men lost to the streets and prisons. So these construction workers hung a punching bag in their back yard to use boxing to teach young people discipline and self-respect.

The Barragans discovered that if you build it, they will come. Their back yard, and later a two-car garage they rented, became a haven from abusive homes and the destructive gang subculture.

The Barragans also attracted a legion of volunteers, including law enforcement officers. Then in 2001, with generous donations from UPS and the Barona Band of Mission Indians, the Barragans bought a modest building in National City and christened their program, now a nonprofit, the Community Youth Athletic Center (CYAC). Every day after school, dozens of kids participate in the gym's all-volunteer athletic, tutoring and mentoring programs, and the CYAC has the champions and college graduates to prove that what it does works.

But now the CYAC and its kids are taking on their toughest opponent yet: City Hall. National City intends to seize the gym through eminent domain so developer Jim Beauchamp can build luxury high-rise condos for the rich. To make this happen, and to enable the city to transfer other private property to big business, National City is preparing to renew a decades-old blight designation that covers two-thirds of the city.

National City wants to re-declare most of itself blighted because doing so perpetuates a cash bonanza for the powerful. A blight designation unleashes the awesome power of eminent domain, enabling the government to take low-tax-yield homes and small businesses and give them to developers promising to build high-tax-yield properties such as condos and big-box stores.

A blight designation also allows a government redevelopment agency to siphon property taxes that would otherwise go to essential services such as police and fire protection.

These perverse financial incentives have given rise in California to an insatiable redevelopment machine. There are more than 750 blight zones statewide in which the abuse of eminent domain is rampant. The state's 400 or so government redevelopment agencies consume all of the property taxes on more than \$380 billion worth of land, and they are more than \$60 billion in debt.

National City is a national poster child for redevelopment abuse. As any visitor can attest, National City's sprawling blight zone is remarkable for its lack of blight. Instead, the streets are lined with lovingly tended homes and thriving albeit humble businesses. Yet rather than embrace its grass-roots entrepreneurs, National City plans to demolish them – and their dreams – in favor of retail mega-stores and their unskilled jobs.

And do not believe anyone who tells you that eminent domain is a last resort. Literally within days of approving Beauchamp's condo project in 2005, National City sent the gym a letter with instructions to sell now or be condemned.

The National City redevelopment machine, as elsewhere in California, is out of control because it lacks an effective constitutional brake. Both the California and U.S. constitutions permit the government to seize property only for a "public use," which traditionally meant a road or a post office. Courts these days often look the other way when

eminent domain is used to “remedy” bogus blight or even when cities admit that all they are trying to do is bring in wealthy property owners who can pay more taxes.

The demise of our federal constitutional property rights culminated in the U.S. Supreme Court's disastrous 2005 decision in *Kelo v. New London*, in which a narrow five-justice majority ruled that the government can take property simply for private economic development. In her sharp dissent, then-Justice Sandra Day O'Connor warned that the court's refusal to protect property rights would become a “license to transfer property from those with fewer resources to those with more.”

This prediction is borne out by the facts. In a just-published report, the Institute for Justice, a public interest law firm that litigated *Kelo*, documented with U.S. Census data how the use of eminent domain for redevelopment overwhelmingly targets the poor and minorities. It is no coincidence that National City is going to seize the CYAC so the developer can replace the gym's at-risk Hispanic and African-American kids with upscale condo-dwellers.

Today, the CYAC and the Institute for Justice will join forces to challenge National City's absurd decision to declare most of the city “blighted” yet again. With the state Constitution in our corner, we are prepared to deliver a knockout punch to eminent domain abuse. Winning this fight would protect not only the gym and its kids, but also the millions of Californians threatened by the money-hungry redevelopment machine.

■ Rows is a staff attorney for the Institute for Justice, which litigated the *Kelo* eminent domain case before the U.S. Supreme Court.

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