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NORTH COUNTY TIMES

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THE CALIFORNIAN

Last modified Wednesday, June 4, 2008 9:24 PM PDT

REGION: Prop. 99's limited protection may lead to more reform

By GARY WARTH - Staff Writer

The passage of Proposition 99 on Tuesday will shield some Californians from government property seizures, but even proponents of the initiative say it could do more.

On the morning after the election, the question was: Who will take the lead in further eminent domain reforms?

State legislators could address eminent domain by approving a statute with a simple majority, though a higher threshold of protection would come with a state constitutional amendment that would require two-thirds support from lawmakers and a vote of the people.

Another avenue would be a new voter initiative, which a sponsor of a failed alternative to Proposition 99 already has hinted at.

Proposition 99, the Homeowners Protection Act, prohibits the government from using eminent domain powers to take owner-occupied residences for private uses, such as resorts, office buildings or hotels. The government still can take the property for needed public uses, such as roads, schools and parks.

An alternative initiative, Proposition 98, would have prohibited the government from seizing any private property for private use. The proposition, which failed Tuesday, also would have phased out rent control in the state.

Twelve California cities have rent-control ordinances, and about 145,000 mobile-home spaces throughout the state are under rent control.

Escondido, Oceanside and San Marcos have mobile-home parks with rent control.

Proposition 98 would have phased out rent control, meaning rent would not be raised until after current tenants moved.

Some mobile-home residents said they feared park owners would intimidate them into moving if the proposition passed.

On Tuesday, Proposition 99 campaign consultant Brandon Castillo also said proponents of the initiative would be open to work with legislators to add greater protection, but at the moment he doesn't know who might take the reins.

"Right now, I'm not hearing any discussion about a legislative effort, but we'll see," Castillo said.

A challenge for Proposition 99 supporters to seek greater property protection was thrown down on election night by Jon Coupal, president of the Howard Jarvis Taxpayers Association and supporter of Proposition 98.

"Throughout the campaign, Prop. 99 proponents repeatedly assured voters that after Election Day they would address the measure's shortcomings through the legislative process," Coupal said in a statement. "We would gladly join such efforts with the governor and the Legislature to protect all homes and all private property ---- including businesses, family farms and places of worship. If the Legislature fails to act, we will consider qualifying another ballot measure."

Like Coupal, Proposition 98 spokesman Marko Mlikotin, president of the California Alliance to Protect Private Property Rights, said he is willing to put it all behind him and work on additional measures to restrict eminent domain.

"Everyone should operate in good faith," he said.

Castillo scoffed at the idea of the Howard Jarvis Taxpayers Association, a sponsor of Proposition 98, working with legislators to restrict eminent domain.

"We're willing to look at anything the Legislature has to put forward, but we find it extremely disingenuous that the Howard Jarvis Association wants to go back and work with them," Castillo said. "To say they've poisoned the environment, to call it toxic, would be an understatement."

Castillo said the Howard Jarvis Taxpayers Association last year had worked with legislators on eminent domain reform through the proposed Assembly Constitutional Amendment 8.

Carried by state Assemblyman Hector de la Torre of the 50th District in Los Angeles, the amendment would have offered private property owners broad protection from government seizures for private use.

"We had a legislative compromise that was progressing very well, and it was strong reform," he said.

With just a month left in the legislative session, Castillo said, the Howard Jarvis Taxpayers Association pulled its support of the amendment after the group pushing for Proposition 98 got funding for a petition drive from apartment landlords and mobile home park owners.

The financial backers stood to profit from the initiative because of the rent-control provision, he said.

That's not quite how it is remembered by Mlikotin.

"(The proposed state constitutional amendment) didn't go far enough," he said about why the taxpayer association opposed it.

Mlikotin said the Howard Jarvis Taxpayers Association also withdrew its support of the proposed amendment because it learned that the state Senate had plans to slip in a "poison pill" provision that would have killed Proposition 98, which at the time was just getting off the ground.

The association did not agree with the Senate's tactic, he said.

Looking ahead, Castillo said Proposition 99 proponents are "willing to take the high road and look at anything," but he does not think anything would happen in the near future.

De la Torre said that after his experience with the proposed constitutional amendment to restrict eminent domain, he has no interest in picking up the cause.

"I just don't see, with all the other problems California is facing right now, the issue coming to the forefront anytime soon," he said.

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