

## Split decision on eminent domain

---

**By Michael Gardner**  
U-T SACRAMENTO BUREAU

**June 4, 2008**

SACRAMENTO – California voters yesterday rejected Proposition 98, a far-reaching initiative that would have phased out rent control and sharply limited government authority to take private property.

However, Proposition 99, a much narrower initiative that protects only homes from being seized, won handily.

Tom Adams, president of the League of Conservation Voters, said the election results showed that “it pays to be honest with voters.” Adams opposed the more sweeping Proposition 98, calling it an assault on renters and the environment in the guise of eminent domain reform.

The Proposition 98 campaign attributed the defeat to voter confusion over the dueling initiatives and raised concerns over whether cities and counties inappropriately used taxpayer dollars for the campaign.

“We believe all property owners wound up losing tonight,” said John Kabateck, California executive director of the National Federation of Independent Business.

Kabateck said supporters of Proposition 98 will ask the Legislature to extend protections to all property – not just homes.

Adams said there is little interest in bringing the issue back.

“The voters have said what they wanted,” Adams said.

Primarily, voters were determining just how far government should be allowed to go when using its eminent domain authority to acquire private property.

Proposition 99 took a measured approach by blocking government seizures of owner-occupied, single-family homes, but leaving cities and counties unbridled to pursue business property.

Cities, predominantly acting as redevelopment agencies, have exercised that power to spruce up blighted neighborhoods and revitalize decaying downtowns. Petco Park in San Diego is a prime example.

However, there have been scattered cases where critics say the law was being manipulated to favor large, revenue-producing developers.

Case in point: Ahmad Mesdaq drew national attention while fighting San Diego City Hall to keep his Gran Havana Cigar & Coffee Lounge in the Gaslamp Quarter. The city seized Mesdaq's business in favor of a hotel, eventually agreeing to pay him \$7.8 million. The hotel has still not broken ground, although shovels might turn next month.

It is cases such as Gran Havana that Proposition 98 attacked by proposing to bar government from taking all homes, businesses, farmland or churches and then turning the property over to private developers.

However, opponents seized upon the rent-control provision to paint the initiative as a scheme by landlords.

Critics say that the narrower Proposition 99 is riddled with so many loopholes that the status quo will prevail. Proposition 99 does not address rent control.

Both measures left untouched the right of local governments to take private property for public purposes, such as roads, schools or hospitals. Under eminent domain, government is required to provide owners with market-rate compensation for their property.

This election was a sequel for opponents of eminent domain, who in 2006 sought to capitalize as momentum built nationally to strip government of much of its power to seize property.

At that time, the public and politicians were reacting to a controversial U.S. Supreme Court ruling that upheld the right of the city of New London, Conn., to seize Suzette Kelo's home and turn it over to the developer of a hotel and convention center.

The movement lost traction in California when voters balked at the first initiative, with 48 percent in favor and 52 percent opposed. The defeat was blamed on provisions that also would have rolled back local zoning laws and environmental safeguards.

This year, rent control was the ancillary issue in play.

Opponents seized on that provision, spotlighting senior citizens warning of losing affordable mobile-home-park spaces and apartments. A Field Poll found overwhelming opposition from likely voters who rent.

The Proposition 98 campaign said those fears were overblown because landlords could begin charging market rates only once a rent-controlled apartment or mobile-home space became vacant.

Supporters of Proposition 98 concentrated their campaign on the threat that homeowners and small businesses could be forced to sell their land to clear the way for newer businesses that could generate more tax revenue.

Proposition 98's supporters included the Howard Jarvis Taxpayers Association, the National Federation of Independent Business, the California Farm Bureau and various mobile-home-park and apartment owners.

Proposition 99's supporters included cities, counties, the American Association of Retired Persons, environmentalists, Gov. Arnold Schwarzenegger and U.S. Sen. Dianne Feinstein, D-Calif.

[»Next Story»](#)

---

**Find this article at:**

[http://www.signonsandiego.com/uniontrib/20080604/news\\_1n4domain.html](http://www.signonsandiego.com/uniontrib/20080604/news_1n4domain.html)

Check the box to include the list of links referenced in the article.

© Copyright 2007 Union-Tribune Publishing Co. ? A Copley Newspaper Site