

## Another showdown over eminent domain

By [Anthony York](#)  
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Local governments and property rights groups are headed for a ballot box rematch over eminent domain authority. Assemblyman Hector De La Torre, D-South Gate, is hoping to craft a compromise measure, with backing from the League of California Cities. But Republican opponents and property rights groups dismiss De La Torre's measure as "a fig leaf," and are poised to head back to the ballot with an initiative of their own.

But both measures are noticeably different than last year's Proposition 90, which was defeated by voters in 2006.

If Proposition 90 was criticized for being too broad in scope, much of the opposition to De La Torre's [ACA 8](#) claims that the measure is too narrow, and does not offer equal protections for all types of private property. The measure, as drafted, would prohibit government seizure of owner-occupied residential units, but not for rental or other investment properties.

Though much of the opposition to Proposition 90 came from local governments, they had some help from unexpected sources. Cal-Tax, one of the state's most influential taxpayer rights groups, opposed the measure, but the group has formally opposed De La Torre's [ACA 8](#)

"There is simply no justification for protecting owner-occupied properties, but not rentals and investment properties," wrote Cal-Tax's Teresa Casazza in her letter formally opposing the proposed constitutional amendment. "It sets up a system whereby constitutional rights are diminished depending on the use of the property."

ACA 8 passed the Assembly Judiciary Committee Tuesday on a party-line vote. Proponents were optimistic that Republicans would remain neutral on the measure as negotiations continue. But those hopes were dashed as the committee voted under the watchful eye of Assemblywoman Mimi Walters, R-Laguna Niguel. Walters was the legislative champion of the effort to pass Proposition 90 last year, and has her own eminent domain measure pending in the Legislature.

During the Judiciary Committee hearing, Walters was seen huddling with Richard Mersereau, policy director for the Assembly Republican Caucus. Mersereau also went off state payroll to work on the Proposition 90 campaign last year. After the vote, De La Torre met with Assembly Republican Leader Mike Villines, R-Fresno. De La Torre suggested the fate of [ACA 8](#) may depend as much on internal GOP caucus politics as any policy concerns.

"At the end of the day, it's going to come down to what the caucus decides - if they let everyone decide on their own or not," he said.

De La Torre said some Republicans he spoke to seemed interested in brokering a compromise, but that others were more strident in their opposition. Among those staunch opponents is Walters, who was a strong backer of Proposition 90, and is facing a Republican challenger in her race for state Senate next November.

Walters was in Committee Room 4202 as the panel voted on the measure Tuesday. Later, she blasted De La Torre's proposal. "This bill is nothing more than window dressing from the majority party designed to fool the people of California into thinking they have taken real action on eminent domain reform," said Walters. "Under their approach, our homes, our businesses and our churches would still be at risk from being seized by government bureaucrats for private development to increase tax revenue. California taxpayers deserve better."

De La Torre referred to Proposition 90 as "an effort to eviscerate eminent domain. Cities and redevelopment agencies often use their power to seize property as a tool to help clean up blighted areas, say local officials. But opponents say eminent domain powers are often abused by local jurisdictions, leading to unwarranted seizures of private property and often benefiting developers with strong political connections.

ACA 8 is primarily meant as a preventative measure, seeking to head off attempts by the Howard Jarvis Taxpayers Association and other property rights groups to qualify a measure for the June 2008 ballot. The June ballot is expected to have a lower turn-out, since the presidential primary has been moved up to February. That lower turn-out means a larger percentage of the voters likely will be conservative, and increase the chances that a measure limiting government's eminent domain powers may pass.

"We see, through the initiative process, others trying to use the issue in order to advance other agendas," said Chris McKenzie, executive director of the League of California Cities.

The words were just as harsh on the other side. "This is a sham. [ACA 8](#) is not even a Trojan horse. It's a fig leaf," said John Gamper of the California Farm Bureau Federation, part of the alliance which is trying to qualify the measure for the June ballot. Gamper said cities and local governments use eminent domain authority as a way to ease the path of new developments, which bring property and sales tax revenues into local coffers.

"This is all about their ability to capture that tax revenue," he said. ACA 8 seeks to place some limits on local government's rights to seize private property in the name of the public good. Specifically, his measure would prohibit the seizure of any owner-occupied home to another private interest, and require that any small business seized by eminent domain be given the right to participate in any new development project on the land.

"This is a thoughtful compromise," said De La Torre. "It provides much-needed protection in the constitution for homeowners and small businesses."

But Michael Shaw, spokesman for the National Federation of Independent Businesses said De La Torre's measure was a "superficial" fix to a much larger problem. "This measure does not go far enough to prevent the abuses we've seen across the country and across the state," he said.