

ORANGE COUNTY MEASURE A

Eminent domain

Placed on the Ballot by unanimous vote of the Orange County Board of Supervisors, if passed, it would prevent the Board of Supervisors or any County agency from using eminent domain for private benefit or ownership. It would bind all future boards and could be repealed by popular referendum. It would affect only county territory—not incorporated cities.

BACKGROUND

Eminent Domain is the power of government to take private property for public use even when the owner does not want to sell. The 5th Amendment of the U.S. Constitution and articles in many state constitutions allow this practice provided that just compensation is made for property seizures through negotiations or, failing that, through court ruling. Government has long applied eminent domain to buy land for public uses, such as roads, libraries, schools, etc. Over time, “public use” has expanded to mean “public purpose,” with redevelopment agencies using it to generate tax revenue.

Most states are reexamining their laws and producing a host of bills seeking to curtail eminent domain in response to last June’s 5 - 4 unpopular Supreme Court decision (*Kelo vs New London*) which gave officials of New London, Ct. the authority to condemn a group of waterfront homes for a private developer in order to increase tax revenue, tax base, employment and economic health. Some bills and initiatives are requiring jury trials for eminent domain hearings and state paid attorneys if property owner wishes to contest.

To take private property for private redevelopment, California law requires agencies use findings of “blight” that cannot be redeveloped through private investment alone. Blight can include unsafe or too small buildings, lack of parking, adjacent uses incompatible with each other preventing economic development. California law requires the initial offer of compensation be based on an independent appraiser’s estimate of fair market value and that tenant businesses and residents be paid relocation costs. The redevelopment agency must adopt a “resolution of necessity” before court action. Around 40% of the state’s redevelopment areas don’t have eminent domain in their charters. Another 30% have self imposed limitations. According to the Center for Economic Development, in 2002-03, California redevelopment agencies generated \$31.8 billion in economic activity.

OTHER PROPOSALS

HR4128 – Resolution would withhold federal economic development money from governments that apply eminent domain to obtain or use private property for economic development.

SCA 20—State Constitutional amendment (Sen. Tom McClintock R-Thousand Oaks) would let the government continue to apply eminent domain for public purposes but would forbid forced sale of residential or business property and turning it over to a for-profit entity for redevelopment.

Howard Jarvis Tax Assoc. is collecting signatures for a similarly worded Nov. 06 ballot measure

SCA 12—State Constitutional Amendment (Sen. Tom Torlakson (D-Antioch) would forbid taking owner-occupied single-family homes for private development.

SB 1210—Also proposed by Torlakson, this bill would clean up the eminent domain process used for redevelopment. It would give property owners a say in who appraises their land and require redevelopment agencies cover landowners' legal costs if the ultimate ruling favors the owner. It would also prohibit public officials from taking campaign contributions from private developers receiving redevelopment property through eminent domain.

YES vote means that the Board of Supervisors or any agency within the county of Orange could not use eminent domain for private benefit or ownership. It will not affect use of eminent domain for public use.

NO vote means no change in the current ability of county government to use eminent domain.

SUPPORTERS SAY

- Kelo decision allows big government to walk all over the property rights of the “little guy” whose business or residential property can be confiscated—often without fair compensation—and then turned over to for-profit developers.
- Property ownership is a “fundamental American freedom” and property owners should not be exploited by governments using a broad definition of “blighted.”
- Measure A won't block economic development, but will provide some protection for property owners and small businesses who should not be at the mercy of government power.

OPPONENTS SAY

- Eminent Domain should be used as a last resort, but limiting its use would be irresponsible.
- Eminent Domain is a tool to be used for the betterment of the community; it is the most powerful tool a redevelopment agency can use to eliminate blight and revitalize a community. It enables “private dollars” to rejuvenate neglected areas of a community
- Economic development projects increase the tax base and tax revenue which governments need to provide services (fire, police, schools, roads, etc.) for all its residents.