

Addressing Eminent Domain Fears

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By: ROSEANN MIKOS

In response to *Eminent Domain Debate Not over Yet* (Acorn, September 28th), two letters to the Editor from residents that day (Castro and Nuno), Councilmember VanDam's eminent domain essay, many residents' e-mails—some thanking and others roundly criticizing me and the City Council for our actions regarding eminent domain—plus all the other neighbor-to-neighbor discussions, publicity, information, (and sadly, targeted misinformation) over the last two years leading up to the recent council vote, I have done a great deal of soul-searching and reflection on this issue, along with hard data collection, analysis, and looking at past history, both in Moorpark and in California. Here are some of my reflections and a proposal for consideration.

On September 19th, the Moorpark City Council unanimously rejected a proposed amendment to the Moorpark Redevelopment Agency's (Agency) Redevelopment Plan. This amendment would have reinstated for 12 years the expired (limited) eminent domain authority that Moorpark voters had originally approved for 12 years in 1989. The proposed amendment, if approved, would have permitted (as a last resort only) the use of eminent domain on commercial and industrial zoned properties, according to the same stringent restrictions that Moorpark voters had approved in 1989—nothing more, and nothing less.

While the amendment voted upon specifically *exempted residentially zoned properties* from eminent domain, the principal concern expressed on behalf of the 300+ residents who attended the September 19th council meeting was that they were afraid eminent domain would be used to take away their homes. For those who understood that residential properties were exempt, they said they were afraid that a future City Council would rezone all the downtown homes to commercial or industrial so that the Agency could then use eminent domain to still take away their homes.

These real fears, not based on facts (but on "targeted misinformation"), created an emotionally charged, passionate dynamic from concerned, well-intentioned individuals. Nothing anyone could say would have convinced the apprehensive

residents that the proposed amendment had “nothing to do with taking their homes.” In fact, the proposed amendment, if approved, would have prohibited using eminent domain for taking residential-zoned property.

Whoever erroneously told residents and their leaders that Moorpark had abused eminent domain in the past and that residents should be fearful of “redevelopment” and of the Agency, were successful in making them afraid, and in making them believe what was not true. The facts are that the City Council, acting as the Agency, has NEVER even used eminent domain for redevelopment in Moorpark.

The facts are that the City, acting as the Agency, has spent more than \$22 million toward improving the Agency's “Project Area” since 1989 for affordable housing, public works improvements, economic development, and community facilities.

These monies were available to spend, were spent, and more will continue to be spent in the oldest areas of our great little town because of Redevelopment and because California voters in 1952 voted to redirect (not increase) tax dollars from rising “Project Area” property values, so that older areas (like our downtown) could be revitalized over time.

Revitalizing does not mean tearing down people's homes and leaving residents out in the cold. Revitalizing means helping residents and businesses improve their properties and assisting in new economic development—without illegally giving a gift of public funds to anyone, and with care taken to follow the complicated, but now strict rules in California Redevelopment Law.

Abuses in other states and in other cities have not occurred in Moorpark. California laws have already been changed to make sure others' past abuses or potential future abuses are difficult, if not impossible, to occur.

A PROPOSAL

Having said all of the above, I accept that unless we as a City can guarantee to residents who live in the Agency's “Project Area” that a future City Council will not be able to unilaterally rezone residential land in the “Project Area” to become commercial or industrial for potential future Agency eminent domain action, our community will never be able to truly debate any other more limited eminent domain authority possibilities for non-residentially zoned properties.

Therefore I am proposing that the Moorpark Redevelopment Agency place a measure on the nearest possible future ballot (hopefully June 2008) that would allow Moorpark voters to vote on a question such as this: "Shall the Moorpark Redevelopment Agency prohibit the use of eminent domain to acquire any properties in the Agency's "Project Area" *for the life of the Agency* that, as of January 2007, were zoned residential?"

I think voters would overwhelmingly approve such a measure to prohibit eminent domain for such residential properties for as long as the Agency and the "Project Area" exists. By doing this, even if a future city council did change zoning, the Agency would still not be allowed to use eminent domain on residential properties whose zoning designation had changed. I will work hard to get such a measure on the ballot and then passed. I hope that my fellow councilmembers/agency members will agree.

If placed on a ballot and approved, "Project Area" residents would have the guarantee they have requested and the principal obstacle to any other potential eminent domain considerations would be removed. This would allow a fair debate on commercial and industrial eminent domain for the Agency—something which has still not occurred. Virtually all discussions so far have centered on residential eminent domain, even though that was not under consideration on September 19th. Let a discussion begin on this new proposal.

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