

Capitol takes on eminent domain Supreme Court ruling decried by lawmakers

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McALLEN — The U.S. Supreme Court's decision last week to allow local governments to use eminent domain for economic development purposes is now causing aftershocks in Austin and the Rio Grande Valley.

At the State Capitol, state Rep. Frank Corte Jr., R-San Antonio, and Rep. Aaron Peña, D-Edinburg, are working together to file paperwork asking Gov. Rick Perry to add the issue to the current special session and for voters to decide in November whether to allow a provision be included in the state Constitution allowing for property condemnation only for public use purposes.

"I don't think it is solely characterized as a reaction," Corte said Wednesday. "They (the Supreme Court) kind of redefined the public use and the public purposes of economic development."

He said the court's 5-4 decision in *Kelo vs. City of New London*, a case in which the Connecticut municipality wanted to take property for redevelopment purposes to boost its waterfront and downtown, was "just too heavy handed of government to be able to do that."

The court's ruling allows states to curb the use of eminent domain if legislators desired.

"In the past, it's been (for) public use, everything that was going to be done in the eminent domain would benefit the public," Corte said. "In cities and counties, they would take properties for sewer, water."

Corte's joint House resolution is gaining support among members of both parties, including Hidalgo and Starr County Democratic state representatives Ryan Guillen of Rio Grande City, Veronica Gonzales of McAllen and Armando "Mando" Martinez of Weslaco. The resolution has already been given to the House of Representative's Land and Resource Management Committee for a decision to be made on a hearing date. Corte said debate on the resolution could happen after the Fourth of July holiday.

Gonzales signed the resolution because she said it was ridiculous for the government to take people's properties. She said the resolution, which the Legislature can deal with during the special session, was a way for legislators to unite in letting Perry know of their dislike for the court's ruling.



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D-McAllen

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"I'm surprised the U.S. Supreme Court would go that far," Gonzales said. "It changes what the law has been for so many years."

Martinez said he was stunned by the Court's decision, but said he did not mind eminent domain if a property owner decided on his own without pressure to give up land.

"It's not right to have your property rights taken away just because they want to beautify a certain area of the city," he said.

Peña is also on board with Corte's resolution, but filed House Bill 73 on Wednesday calling for governing bodies to not use eminent domain as a way to spur on economic progress. Corte has signed on as a co-sponsor.

Peña said the basis of his bill was the Fifth Amendment, which mandates land not be taken without fair compensation.

But the Supreme Court's decision has now made Americans, particularly the poor, unable to own their own land.

"If you had good ties with political figures or the well connected, then you will have greater rights than other people," Peña said.

"The next thing is to go into your private personal property and be told that you don't own that anymore. It is a slippery slope the Supreme Court has taken us down."

Corte said any legislation coming out of he and Peña's filings should not infringe on people's property rights.

But any talk about protecting land is up to the governor, who sets the agenda for what will be discussed in special sessions. The 30-day special session that began June 21 deals with school finance reforms and property tax relief.

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we can take it up," Corte said.

If Perry did not add property rights to the session, Corte said the Legislature could deal with the issue in another special session or during the 80th regular session in January 2007.

Regardless of when — and if — the matter could be discussed in the Legislature, some municipal leaders said they do not want to use eminent domain for economic purposes.

Weslaco City Manager Anthony Covacevich said municipalities might have different definitions of what economic development entailed. He said the city did not have written scenarios on when condemnation could be used.

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McAllen City Manager Mike R. Perez said his City Commission is pro-neighborhood and has only used the eminent domain practice for utilities and street purposes.

"I think if the City Commission approved the condemnation of a subdivision to build a shopping center or factory, the repercussions could be those councilmembers could no longer be in office," he said.

Condemnation probably would not be needed for the goals the McAllen Business and Historical Redevelopment Foundation Inc. have for beau-

tifying Bicentennial Boulevard. There are cantinas on the roadway between U.S. Business 83 and U.S. Expressway 83 that foundation members have complained are unsightly. Foundation members have wanted the city to help clean up the area.

"Here lately, there's been talk of people wanting to sell, so surely we are going to give them all the benefit of the doubt," Alida S. Hernandez, a two-time city commission candidate, foundation member and McAllen business owner. "We are going to try to work with them. It is an eyesore. We have a beautiful boulevard."

She said some residents and business owners are accommodating in finding ways to improve their properties. The foundation is developing a program offering tax credits to aid in revitalization.

"They (owners) don't want for someone to come in and demolish them," Hernandez said.

Clemente Gutierrez, 52, of Edinburg has lived in his Sugar Road home for four years. He said if ever pressed to leave his property, he would want to set his own appraisal value instead of the government telling him how much he should receive.

"My property is worth as much as anybody else's, no matter who buys it," Gutierrez said.

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