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Eminent domain debate to resume in San Pablo

By Tom Lochner
Contra Costa Times

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A vocal group of residents, backed by a nationwide libertarian group, wants to derail San Pablo's quest to reinstate its eminent domain authority for 12 more years, convinced it is a plot to evict homeowners to make way for commercial development.

City officials say they have no current plans to invoke eminent domain, but may need the power in the future to assemble sites for development. They say homeowners have nothing to fear because the California Constitution prohibits using eminent domain to acquire an owner-occupied residence and convey it to a private person or business entity. To assuage doubters, the council on April 5 authorized signing formal written contracts with individual homeowners affirming that prohibition.

But opponents vowed to continue their fight, their animus fueled by a notion that the "blight" designation associated with redevelopment areas — that includes about 95 percent of San Pablo — is tantamount to invoking eminent domain. Officials countered that they have used the land-acquisition tool sparingly: eight times since 1972, according to City Manager Brock Arner.

Overall, the city Redevelopment Agency's accomplishments have been dramatic and positive, officials say. They include the Signature at Abella

residential development, other housing developments, several shopping centers, the Holiday Inn Express hotel and a small-business loan program.

City officials say their move is driven by a statute, not by any nefarious secret plans. A redevelopment expert unfamiliar with San Pablo's specific situation said the city's predicament is not uncommon.

"By statute, a redevelopment agency's power of eminent domain is limited to 12-year increments. The redevelopment plan itself can last for 40 or 50 years," said Brent Hawkins, general counsel of the California Redevelopment Association. "So, it is certainly not uncommon for a community to encounter a situation where the power of eminent domain has expired while the redevelopment plan continues in effect."

The council will discuss reinstating eminent domain authority Monday.

The current flap began at a public hearing Feb. 16 following a notice sent to residents and business owners citywide. More than 100 people showed up, many venting ire against the city, not just over redevelopment and eminent domain, but against city government. One business owner, Olivia Liou, lamented "a disconnect" with the City Council; Mayor Leonard McNeil pledged to address that concern.

On March 27, a group of residents and business owners met with Christina Walsh, director of activism and coalitions for the Institute of Justice, which describes itself on its Web site as "our nation's only libertarian public interest law firm." A large part of the institute's focus is eminent domain abuse; it represented homeowner Susan Kelo before the U.S. Supreme Court in *Kelo v. New London*, in which the court by 5-4 upheld the right of New

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London, Conn., to condemn an old residential neighborhood to make way for upscale development, including a hotel, adjacent to a new campus for Pfizer, the pharmaceuticals giant.

Since then, many states have set restrictions on eminent domain, including California, where voters in 2008 passed Proposition 99, which prohibits government from using that legal device to acquire owner-occupied residences to transfer them to a private person or company. A summary by the state attorney general notes that Prop. 99 creates "exceptions for public work or improvement, public health and safety protection, and crime prevention." Critics, including the San Pablo group, say those exceptions invite abuse by zealous redevelopment agencies.

At the March 27 meeting, the group formed San Pablo Against Eminent Domain; a cartoon on its Web site, sanpablotalkback.wordpress.com, shows a house flying the American flag about to be hit by a giant wrecking ball with the name "San Pablo Redevelopment Agency."

Recent events, nationally as well as locally, have fueled the controversy. In October, Pfizer announced it was pulling out of New London and moving to nearby Groton, Conn.; Kelo's old neighborhood is already demolished.

And in San Pablo, many residents are upset over the agency's invocation of eminent domain in 2005 to buy the Circle S and Alvarado mobile home parks for a mixed-use development currently in the conceptual stage; the parks, with about 250 homes combined — on spaces rented from the parks' landlords — cost the agency a total of \$20.7 million for acquisition alone. Earlier, city officials had labeled Circle S "the worst mobile home park in Northern California" on the basis of its supposed

high rate of crime. The city's own crime statistics, however, showed that the rate of calls for police service per housing unit was lower than the citywide rate.

Contact Tom Lochner at 510-262-2760.

IF YOU GO What: San Pablo City Council meeting
Where: San Pablo Senior Center, 1943 Church Lane
When: 7 p.m. Monday

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