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EPSTEIN: Property rights

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OP-ED:

Liberals normally claim to defend small independent businesses over "big box" retailers. It seemed odd, then, when the liberal enclave of Oakland, California evicted two such underdogs to benefit a department store. By doing so, it exposed governments' growing disrespect for property rights.

On July 1, 2005, movers on the Oakland city payroll began boxing up the contents of Revelli Tire and Autohouse. City officials had plans to turn the properties into apartments and condominiums. Owners John Revelli and Tony Fung didn't want to move, and believed the city's offers to buy them out were far too low. In retaliation, the city determined the properties were "blighted" and eviction proceedings began.

"Blighted" is a term traditionally reserved for properties considered threats to public health or safety. Local and state governments, however, have expanded the definition to apply to properties that don't, in Mr. Revelli's words, "produce enough tax revenue." A blighted property can be taken through the process of "eminent domain." Once used exclusively for public purposes such as roads and parks, governments now use it to aid economic development at the peril of long-time residents and business owners.

Having run Revelli Tire for 46 years after his father ran it for ten, the elderly Mr. Revelli said his failed attempt to save his business was "personally stressful for [him] and his family." He told National Public Radio: "They come in and say 'This is what we feel your property is worth and you have 90 days to vacate. And if you don't agree with that then you have to hire an attorney and fight against that.'"

Mr. Revelli and Mr. Fung were preparing their legal fight against Oakland when the U.S. Supreme Court upheld the use of eminent domain for private development in the case of *Kelo v. City of New London*. In *Kelo*, homeowners in New London, Connecticut were evicted to make room for offices, condominiums and a hotel meant to complement a nearby drug research facility. A week after the *Kelo* ruling, Messrs. Revelli and Fung were evicted.

Mr. Fung, a Chinese immigrant, called Autohouse "the fulfillment of my American dream." Lamenting having to start over, he told the San Francisco Chronicle: "I worked hard. I played by the rules. But now it's all gone."

Oakland city officials also appeared to play favorites, supporting big business over small. Alex Hahn owned property near Messrs. Revelli and Fung's car repair shops, where he planned to build homes. Two months after Messrs. Revelli and Fund were evicted, Mr. Hahn's property was also taken and sold at below market price to the Sears department store chain so Sears could relocate its Auto Center.

Eminent domain abuse in Oakland understandably raises eyebrows. At that time, liberal former governor and ex-presidential candidate, Democrat Jerry Brown, was mayor. Democrat Congresswoman Barbara Lee, the city's voice in Washington, received a perfect score from Americans for Democratic Action in 2006.

Oakland is also a predominantly black city. To be so cavalier with eminent domain power with that fact in mind is like poking a hornet's nest, no matter what the U.S. Supreme Court might think. In Detroit in the 1960s, for instance, eminent domain evictions were called "Negro removals" since black neighborhoods were targeted during the construction of interstate highways. They became fuel for the riots of that era. Modern-day abuses in the name of economic development create similar hardship and potential discontent as gentrification threatens to dissolve black communities. Proposition 98, a referendum in this past June's California primary election, would have amended the state constitution to prohibit eminent domain property transfers for private benefit. Mr. Revelli was a visible proponent. Liberal opponents were able to defeat it by promoting the competing Proposition 99. Proposition 99 passed and offers small property rights protection, but business owners and apartments dwellers, among others, remain at risk.

Self-professed champions of the poor don't help when they oppose eminent domain reform. Doing so simply allows government to take from one and give to another - at the expense of communities - just to rake in tax dollars.

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