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Redevelopment failed cities, but keeps trying for a comeback

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KEY TAKEAWAYS:

Although it recently died in committee, a new Assembly bill (AB 1476) would have brought back redevlopment agencies almost exactly as they previously existed – despite their history of eminent-domain abuse, the harm they caused the state budget, the way they distorted local land-use decisions and their excessive debt. After only a dozen years, some lawmakers apparently forgot all the relevant lessons.

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Say what you will about Jerry Brown, but I'll always think fondly of him because of his crowning achievement in his more-recent stint as governor. In 2011, he eliminated the state's noxious, property-rights-destroying redevelopment agencies. He didn't axe these locally controlled agencies entirely for the right reasons, of course, but he eliminated them nonetheless. It's the only time in memory that California actually eliminated a government program.

Although it recently died in committee, a new Assembly bill (AB 1476) would have brought back these agencies almost exactly as they previously existed – despite their history of eminent-domain abuse, the harm they caused the state budget, the way they distorted local land-use decisions and their excessive debt. After only a dozen years, some lawmakers apparently forgot all the relevant lessons. (Some aspects of redevelopment have returned over the years, but not nearly to this level.)

Given the state's budget deficit, the timing apparently wasn't right. And the powerful California Teachers' Association opposed the bill over concerns about the agencies diverting funds from public schools, but it's worth recounting the wrongheaded nature of these agencies given that almost every year some lawmaker proposes their return.

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California's redevelopment system emerged in 1948 to combat inner-city blight. Simply community redevelopment law gave localities the "tools" to target a "blighted" area and revive it. This meant producing a study proving the existence of blight. Local agencies could then use "tax increment financing." They would float debt (without a vote of the people) to fund infrastructure improvements and capture the expected boost in property taxes (the tax increment) to pay off the bonds.

Redevelopment law also gave agencies broad powers to use eminent domain – traditionally limited to public projects such as freeways, parks and schools – for any project that provided a "public benefit." That broad terminology (see the U.S. Supreme Court's *Kelo* decision) essentially gave the agencies carte blanche to take properties and give them to other private owners by arguing the new project would pay higher taxes or create more benefits for the public than the pre-existing business or neighborhood.

Localities quickly learned that redevelopment could be used a tax-capture measure rather than a blight-removal process. The agencies became the supreme example of crony capitalism, as they acquired land on the cheap on behalf of developers. They subsidized projects (big box stores, auto malls, hotels) that weren't designed to improve anything per se – but to provide a discretionary sales-tax windfall to the local city government. Cities could find blight anywhere they looked.

This distorted the natural growth of cities and by undermining property rights discouraged people from investing in their communities. It led to the creation of some new downtown projects, but it undermined urban development by prioritizing subsidized, centrally planned projects. In many cases, redevelopment led to the wholesale destruction of settled neighborhoods and historic buildings. It shifted decisions from individuals to central planners.

Taxpayers bore the brunt of such spending given that the state had to backfill revenues the agencies had diverted from traditional public services such as education. The agencies also exacerbated California's housing crisis. They did earmark 20 percent of new tax revenues to subsidized housing projects – but they created a local financial system whereby cities prioritized the approval of tax-generating retail outlets rather than housing (which officials viewed as a drain on their budgets).

Free Cities Center readers can easily imagine what would happen if powerful developers and tax-seeking local officials could partner with one another to grab properties at will, build new condo and shopping projects and force the taxpayer to subsidize them. In fact, I covered so many abuses in my years as a columnist at *The Orange County Register* that in 2004 I wrote a book about the process. An entire political movement arose to battle these agencies and expose the havoc they wreaked – especially on lower-income and minority communities.

I covered one instance where Garden Grove proposed using eminent domain to acquire an entire middle-class neighborhood so it could market the site to a theme-park developer in a (failed) attempt to compete with nearby Disneyland. Anaheim once boasted Orange County's l[illegible] downtown – until the city's redevelopment agency largely demolished it. I've interview[illegible] victims of eminent domain who lost their homes or businesses to some locally directed ce[illegible]

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In *Kelo*, the high court gave U.S. cities the OK to pursue these kind of policies. That case revolved around the New London, Conn., redevelopment agency's destruction of a settled neighborhood to make way for a pharmaceutical company headquarters and related projects – something that didn't materialize. The justices did, however, invite states to pass protections that limited eminent domain to genuinely public projects – something many states did, but not California.

Former Justice Sandra Day O'Connor's dissent is compelling: "Any property may now be taken for the benefit of another private party, but the fallout from this decision will not be random. The beneficiaries are likely to be those citizens with disproportionate influence and power in the political process, including large corporations and development firms. As for the victims, the government now has license to transfer property from those with fewer resources to those with more. The Founders cannot have intended this perverse result."

Ironically, the Legislature recognized in 2021 that cities often abuse eminent domain to the detriment to those who lack political power. The governor signed Senate Bill 796 to return land to the descendants of a Black Manhattan Beach couple whose resort property was seized in 1929 for transparently racist reasons. That obviously predated the state's redevelopment agencies, but it reminds us of the abuses inherent in the eminent-domain process. Lawmakers need to remember the history of Bruce's Beach before they give cities more land-grabbing powers.

Assemblyman David Alvarez, the San Diego-area Democrat who authored Assembly Bill 1476 testified in the committee hearing recently that his proposal has strong safeguards and has agreed to include eminent-domain restrictions in the bill's amendments. Any of us who have watched local governments work know that redevelopment's financial temptations will overwhelm even the best-intentioned efforts to limit the use of takings.

The best approach is to honor Gov. Brown's legacy and not ever recreate these abusive agencies.

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