



News: June 15, 2007

<http://www.austinchronicle.com/gyrobase/Issue/column?oid=492090>

## On the Lege

### *Eminent-Domain Fight Moves to Perry's Desk*

By Amy Smith

An **eminent-domain bill** awaiting the blessing or veto of Gov. **Rick Perry** is stirring up more opposition now than it did when it was wending its way toward easy passage in the Legislature. The reality of the bill's potential fiscal impact on local governments apparently didn't hit home until the measure arrived on the governor's desk. Now, cities and other public entities have moved into crisis mode and are urging Perry to veto the legislation. They argue it would bankrupt local governments that rely on eminent domain to build roads and other public-use projects. The governor's office is also hearing from equally passionate supporters of the bill, who include land-rights activists, agricultural interests, and grassroots neighborhood groups that want Perry to follow the lead of the Lege, which saw very few dissenting votes in either chamber. Perry has until Sunday to decide the fate of **House Bill 2006** and a raft of other bills that passed this session.

What sets this bill apart from previous land-rights measures is its appeal to Democratic legislators for a couple of reasons – recent public outcries over the state's land-grabbing expedition to build **toll roads** and several cities' attempts to redevelop **low-income downtown-area neighborhoods** through eminent domain. The legislation could put the kibosh on the latter by limiting local governments' ability to play the "blight" card in condemning entire neighborhoods for redevelopment.

#### **El Paso**

would have the most to lose in the short term because the bill could hamper the city's authority in condemning more than 150 acres of property in the historic **Segundo Barrio**, El Paso's oldest and most storied neighborhood. The community is home to thousands of residents and small businesses catering to shoppers from across the Mexican border. El Paso Democratic Rep. **Paul Moreno** believes the enhanced eminent-domain measure would indeed prevent the city from bulldozing the community he grew up in. He hopes he is right. "I am totally, totally against [the plan]," he said. "I am of the opinion that they cannot proceed if this bill becomes law." Opposition to the El Paso proposal has gained momentum since *The Texas Observer's* May 4 cover story on the matter.

The El Paso plan is extraordinarily controversial because it pits business and real estate interests – in partnership with the city – against a neighborhood that represents sacred ground for its Hispanic residents and small business owners, many of whom migrated to the U.S. from other countries. "The City Council is controlled by the big boys," Moreno said of the city's willingness to invest hundreds of thousands of dollars to further private interests in the gentrification of El Segundo, in a proposal calling for lofts, trendy shops, and perhaps a Wal-Mart or a Target store. One of the "big boys" behind the plan is real estate developer **Bill Sanders**, who is also the father-in-law of City Council Member **Beto O'Rourke**. "The City Council members are good people," Moreno said, "but they are mistaken."

Veto proponents, in addition to El Paso, include the cities of Dallas and San Antonio, as well as Tarrant and Harris counties. They have asked Perry to veto the bill on grounds that it would disrupt long-planned transportation projects, the same argument put forth by El Paso officials. A fiscal note on the bill includes a **Texas Department of Transportation** estimate that the new law would cost the state \$800 million for highway projects. And the **Harris County Toll Road Authority** estimates it would run into costs of \$1 billion over five years, during the construction period of 100 miles of toll roads.

Austin-area municipalities, for the most part, have been less vocal on the bill, although **Travis County** and the city of **Round Rock** have written letters against it. Travis County's beef is that the law would open the door for more lawsuits at taxpayers' expense. The city of Austin has kept quiet on the matter, perhaps out of gratitude that the measure doesn't seek to further chip away at the city's development rules in environmentally sensitive areas.

In a nutshell, the land-rights bill would require governments to shed more sunshine on their eminent-domain efforts and to make "good-faith" offers on private land needed for public use. It would also tighten the ban on taking private property for economic development purposes, adding protections to an existing state law that grew out of a 2005 U.S. Supreme Court ruling siding with local governments on an eminent-domain case in Connecticut. The measure also includes a buyback provision for landowners, requiring a constitutional amendment that voters will address in the November election.

Until Perry makes a decision on the legislation, the **Texas Conference of Urban Counties** and the **Texas Municipal League** are encouraging cities to step up lobbying efforts in support of a veto. On the other side, the **Texas Wildlife Association**, the libertarian **Institute of Public Justice**, an assortment of agricultural groups, and the less-government advocates at the **Texas Public Policy Foundation** are championing the measure. **Bill Peacock**, director of the Center for Economic Freedom at TPPF, believes the odds favor Perry's blessing of the bill, which other state legislatures are watching closely. Peacock points to El Paso as a textbook example of eminent-domain abuse. "They just want to raze blocks and blocks of homes and businesses," he said. "That's one of the problems with the existing law. [Governments] get to come in and designate a person's private property as 'blighted.'"

---

### Capitol Brief

• Secretary of State **Roger Williams** announced his resignation this week to "pursue other opportunities" – a not so subtle signal that he will probably pursue a statewide office, possibly a U.S. Senate seat should Sen. Kay Bailey Hutchison decide to make a 2010 run for governor. The Weatherford car dealer and Republican fundraiser

extraordinaire will leave office July 1. Gov. Rick Perry has not yet named Williams' replacement. The secretary of state is a relatively low-profile job, although the appointed position has historically provided a suitable jumping-off point for political aspirants and high-dollar lobbyists eager to apply the skills they honed as the state's chief elections officer. In a statement, Perry called Williams an "incredible salesman" for Texas and praised his 21½-year record of manning a mammoth voting system and serving as the state's ambassador to Mexico. Many people will remember Williams as the guy who former Comptroller Carole Keeton Strayhorn sued after he refused to identify the gubernatorial candidate as "Grandma" on the November 2006 ballot. Strayhorn lost the ballot battle and the election. During her campaign, Strayhorn took frequent potshots at Williams for raising campaign contributions while serving in what is supposed to be a nonpartisan post. As of last December, Williams had raised more than \$190,000, according to Texas Ethics Commission filings. — A.S.

---

Copyright © 2007 Austin Chronicle Corporation. All rights reserved.