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
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Local News

Duncan bill to strengthen property rights

By Enrique Rangel | A-J AUSTIN BUREAU

Thursday, January 22, 2009

Story last updated at 1/22/2009 - 7:53 pm

AUSTIN - One of the most sacred rights of all Americans is to own property, but a 2005 U.S. Supreme Court ruling turned such rights upside down, according to Gov. Rick Perry, Sen. Robert Duncan and a state representative from North Texas.

But for Texans, help is in the way, the officials said Thursday.

Duncan, R-Lubbock, and Rep. Rob Orr, R-Burleson, said they will introduce legislation to fortify property rights. In addition, Duncan will propose a constitutional amendment to prevent private property from being taken for economic or private development purposes.

"The purpose of a constitutional amendment is to require the Legislature to provide more scrutiny in its grant of eminent domain authority," Duncan said during a news conference in which he, Orr, Perry and officials and guests of the Texas Public Policy Foundation, the sponsor of a two-day policy orientation for the Texas Legislature, participated.

The proposed constitutional amendment would also allow property owners the ability to defend their property when the state or a local government says it needs to confiscate the land for public use, Duncan said.

"A constitutional amendment would place in law what we hope would be a very strong definition of public use," he explained. "That would be a check-and-balance against the Legislature's sometimes laissez-faire (approach) with regard to eminent domain."

Perry, who vetoed an eminent domain bill after the 2007 session ended because it contained some provisions he didn't like, said he's confident the legislation Duncan and Orr will introduce, plus the constitutional amendment Duncan also intends to file, would give property owners a strong defense when the state or a local government says it needs their land for public use, or, allow them to get a fair price if their property has to be confiscated.

"Government shouldn't use eminent domain to take someone's land without trying to buy it from them first," Perry said. "It is wrong for any government to make a lowball offer, then respond to an owner's righteous refusal by taking the land."

In a 2005 ruling, the U.S. Supreme Court agreed that government entities can use their eminent domain authority not just for public uses but for economic development as well, said Bill Peacock, director of the Center for Economic Freedom at the Texas Public Policy Foundation.

But the high court was wrong, Peacock argued.

Therefore, "it is time for the Legislature to end eminent domain abuse and restore to Texans their most basic of freedoms - the right to keep their property," Peacock said.

Susette Kelo, the plaintiff in the case, whom the Foundation invited to the legislative orientation, said she is glad to see that the Texas Legislature intends to address the eminent domain issue because "most Americans believe in defending their home."

Duncan told The Avalanche-Journal that he agreed to co-sponsor the bill and the constitutional amendment because he chairs the Senate State Affairs Committee, the nine-member panel where the proposed legislation is expected to land for a screening and hearings.

To comment on this story:

enrique.rangel@lubbockonline.com | (512) 673-7553

walt.nett@lubbockonline.com | 766-8706

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