

Don't spoil eminent domain bill*[FINAL Edition]*

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Remember the outrageous U.S. Supreme Court decision that upheld the taking of private property for private use? South Carolina legislative leaders vowed to make sure that can never happen in our state. Charleston Sen. Chip Campsen drafted the Senate-approved constitutional amendment for the November ballot that would provide the needed protection. Unfortunately, there's the potential that the House this week will play the role of spoiler.

The way it looks to Sen. Campsen, some House members are trying to replace a "sure winner with a sure loser" when it comes to eminent domain legislation. His proposed constitutional amendment is clean and simple. Private property could only be taken only for public use. Period. That would eliminate the possibility it could be taken for the far more vague "public benefit" that was a key factor in the Connecticut case decided by the Supreme Court. In that instance, economic development by private interests was construed to meet that state's "public benefit" test.

Actually, the South Carolina Supreme Court has consistently held that eminent domain may only be allowed for a public use. But as Sen. Campsen and others have noted, the high court's views could change with new members. The court's strict guidelines should be written into the constitution.

The House doubtless agrees with that. But it has written its own eminent domain bill that now includes an unexpected, highly controversial provision dealing with the compensation of property owners for regulatory reductions in land use.

Charleston Rep. Ben Hagood joins Sen. Campsen in his concern that the provision will sink the eminent domain amendment. He is concerned that the land use provision could "severely jeopardize" the ability of local government to enact appropriate land use regulations that could, for example, "protect historic resources and our quality of life."

The lawmaker emphasized that he isn't opposed to looking at the land use compensation issue. But, he said, "It's a separate issue that needs to be looked at carefully."

Sen. Campsen is among those who have spent months looking carefully at the eminent domain issue. His legislative package includes the creation of a study committee that would evaluate which of the 53 public agencies that have the power of eminent domain should retain that power.

When it comes to eminent domain, the House should stick to the issue and give voters a clear-cut constitutional amendment that severely limits government's right to condemn private property. To jeopardize its passage with what Rep. Hagood calls "a Christmas tree bill" would do private property owners a grave disservice.

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Abstract (Document Summary)

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