



# Voter decisions on eminent domain and police power reforms

Kwami Adanu<sup>a,\*</sup>, John P. Hoehn<sup>b</sup>, Patricia Norris<sup>b</sup>, Emma Iglesias<sup>c</sup>

<sup>a</sup> Department of Economics and Finance, GIMPA Business School, Accra, Ghana

<sup>b</sup> Department of Agricultural, Food, and Resource Economics, Michigan State University, East Lansing, USA

<sup>c</sup> Department of Economics, Michigan State University, East Lansing, USA

## ARTICLE INFO

### Article history:

Received 16 March 2011

Available online 7 May 2012

### JEL classification:

Q15

Q24

R38

R52

### Keywords:

Eminent domain

Police power

Reforms

Voting

Logistic regression

## ABSTRACT

One unresolved issue arising from the use of eminent domain power involves how the perceived benefits and costs of eminent domain power affect people's positions on the reform of eminent domain and police power law. The paper addresses this issue by estimating a voting model that explains voters' decisions on eminent domain and police power reform referenda in the US. Estimates indicate that eminent domain referendum outcomes hinged on voters' fundamental values and ideology, and voters' immediate self-interest. Voters' fundamental values and ideology affects referendum outcomes insofar as educational attainment in a county has a statistically significant effect on support for reform. Despite the greater incidence of eminent domain in low income and poorer communities, success of reform referenda in this study was found to be greater in counties with higher incomes and lower unemployment rates. This implies that whatever asymmetry exists in the exercise of eminent domain law across income groups does not affect voter reaction to eminent domain reforms. Moreover, counties with high unemployment rates consider the larger potential benefits from urban renewal projects in vote decision-making providing a link between self-interest and voting behavior.

© 2012 Elsevier Inc. All rights reserved.

## 1. Introduction

Eminent domain and police power are two principal avenues by which governments exercise control over land resources. Eminent domain refers to the power of government to take private property for public use. Public use here refers to public services like highways, public utilities, community centers, schools, and other facilities that can be made available for use of the entire community (Merrill, 1986). Police power on the other hand describes the right of government to enact and enforce laws that restrict land use to ensure orderly development, safety, health, and protection of the general welfare of the public (Sax, 1964). Good examples of the use of police power include zoning laws, building and health codes, and environmental

regulations that impose limits on land use by private owners without depriving them of ownership rights over the property.

Court decisions have however gradually broadened the definition of public use to include development initiatives undertaken to provide public benefit (US Supreme Court, 1954, 2005; Michigan Supreme Court, 1981). In 1954, the US Supreme Court affirmed the use by the District of Columbia of eminent domain to eliminate blight and redevelop blighted area, including the sale or lease of condemned properties to private entities that would undertake redevelopment (US Supreme Court, 1954). Then, in 2005, the US Supreme Court upheld the decision of the Connecticut Supreme Court in the famous *Kelo v. New London* case that under the US Constitution governments are permitted to use eminent domain to take property and transfer its use to other private parties as long as there is a public benefit, such as economic development (US Supreme Court, 2005).

\* Corresponding author.

E-mail address: [dkadanu@gmail.com](mailto:dkadanu@gmail.com) (K. Adanu).

The broadening of the definition of public use has generated considerable political response. Opinion polls on the *Kelo* decision for instance show that more than 80% of respondents disagreed with the decision of the Court (Nadler et al., 2008). Nadler et al. (2008) review opinion polls over the last three decades that suggest that *Kelo* struck at core American values. Nadler et al. cite poll finding that 70% of respondents agree with the statement that “The right of property is sacred” and 88% agree that “allowing people to own private property” is a major contributor to making America great” (p. 291). Consistent with these values, polls data show that disapproval of *Kelo* was independent of political affiliation.

Although eminent domain and police power are related in the sense that both affect land use, they represent two fundamentally different perspectives about property rights. The exercise of eminent domain involves forceful transfer of property rights and, as established by the fifth amendment of the US Constitution, requires payment of compensation. Police power is exercised to prevent the actions of property owners from creating some public harm. Because affecting others in some negative way is not part of land ownership rights, regulatory action to protect the public does not require compensation (Flick et al., 1995; Goldstein and Watson, 1997). Nevertheless, efforts to make compensation for the exercise of police power a legal requirement began in 1995 when the US House of Representatives passed a property rights bill calling for compensation of property owners whenever federal regulatory actions decrease property values by more than 20%. The bill however failed to pass the Senate (Goldstein and Watson, 1997). Subsequently, the issue was addressed in some states through legislation and ballot initiatives requiring compensation for police power.

Following the 2005 US Supreme Court ruling in *Kelo v. New London*, several more states initiated referenda to ban the use of eminent domain for economic development purposes or restrict the circumstances under which eminent domain could be used (Orthner, 2007; Sandefur, 2006; Berliner, 2003). Several states also proposed limiting the exercise of police power by requiring compensation in certain instances. In November 2006, 13 states (Arizona, California, Florida, Georgia, Idaho, Louisiana, Michigan, New Hampshire, Nevada, North Dakota, Oregon, South Carolina, and Washington) presented special ballots on reforming eminent domain and/or police power to voters. All but three (California, Idaho, and Washington) were approved (Table 1). In general, two main types of ballot measures were presented: eminent domain only ballots, and eminent domain and police power compensation ballots. States with eminent domain only ballots generally called for banning or restricting the use of eminent domain power for economic development purposes while eminent domain and police power compensation ballots combine restricted use of eminent domain power with requirement for police power compensation.

The research reported here examines voter decisions to identify the factors that influenced eminent domain and regulatory compensation referenda outcomes. The empirical analysis applies logistic regression to county-level voter returns in 10 states with reform measures on the 2006

**Table 1**

Summary of results for all eminent domain ballots in 2006. Source: National Conference of State Legislatures: Property Rights Issues on the 2006 Ballot.

| State          | Measure #      | Topic area                    | Pass/fail    |
|----------------|----------------|-------------------------------|--------------|
| Arizona        | Prop. 207      | Eminent domain & police power | Pass (64.8%) |
| California     | Prop. 90       | Eminent domain & police power | Fail (47.6%) |
| Florida        | Amendment 8    | Eminent domain                | Pass (69%)   |
| Georgia        | Amendment 1    | Eminent domain                | Pass (82.7%) |
| Idaho          | Prop. 2        | Eminent domain & police power | Fail (23.9%) |
| Louisiana      | Amendment 5    | Eminent domain                | Pass (55%)   |
| Michigan       | Proposal 06-4  | Eminent domain                | Pass (80.1%) |
| Nevada         | Question 2     | Eminent domain                | Pass (63.1%) |
| New Hampshire  | Question 1     | Eminent domain                | Pass (85.7%) |
| North Dakota   | Measure 2      | Eminent domain                | Pass (67.5%) |
| Oregon         | Measure 39     | Eminent domain                | Pass (67.1%) |
| South Carolina | Amendment 5    | Eminent domain                | Pass (86%)   |
| Washington     | Initiative 933 | Police power                  | Fail (41.2%) |

ballot. Estimates indicate that eminent domain referendum outcomes depend on voters' fundamental values and ideology insofar as educational attainment in a county has a statistically significant effect on support for reform. However, the results also show that counties with high unemployment rates consider the larger potential benefits from urban renewal projects in vote decision-making thus providing a link between self-interest and voting behavior. Moreover, despite the greater incidence of eminent domain in low income and poorer communities (Carpenter and Ross, 2009), success of reform referenda in this study was found to be greater in counties with higher incomes.

The remainder of the paper is ordered as follows. The next section presents the conceptual framework and research hypotheses of the paper. This is followed by the research data description and economic model sections. Discussion of the research results and conclusions then follow in that order.

## 2. Framework and hypotheses

The rational voters model suggests that voters' decisions on public good provision can be treated as a derived demand of how much public good voters want to consume at the optimum (Downs, 1957; Deacon and Shapiro, 1975; Matsusaka, 1993; Kotchen and Powers, 2006). This implies that voters make voting decisions on the provision of public goods to maximize utility derived from the consumption of private and public goods subject to an income constraint. The analysis of vote outcomes on eminent domain and police power compensation is therefore treated

Download English Version:

<https://daneshyari.com/en/article/962061>

Download Persian Version:

<https://daneshyari.com/article/962061>

[Daneshyari.com](https://daneshyari.com)