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Prop 99 backers accused of illegal funding

A complaint by proponents of a competing initiative to reform eminent domain suggests a complex scheme to launder taxpayer dollars.



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SACRAMENTO – Two initiatives on the June ballot promise to make the next election a

confusing one.

Both measures claim to offer genuine "eminent domain" reform, but while one broadly forbids government from taking any private property and giving it to another private interest, the other only stops the seizure of owner-occupied homes.

In fact, the second measure, known as the Homeowners Protection Act or Proposition 99, is backed by groups who actually opposed eminent domain reforms in 2006. Yet, those same groups now portray themselves as the only true voice of reform.

Who would bankroll such a campaign?

Well, maybe you.

You see, supporters of the broadly written measure, the California Property Owners and Farmland Protection Act, or Proposition 98, believe the backers of Prop. 99 have devised a complex scheme to launder taxpayer dollars to use for political purposes.

"The evidence strongly suggests that public dollars are being used inappropriately," said a statement from Orange County Congressman John Campbell, who co-authored a complaint to the California Fair Political Practices Commission.

Campbell, R-Irvine, as well as Jon Coupal,

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president of the Howard Jarvis Taxpayers Association, and Trevor Grimm, attorney for the Apartment Association of Greater Los Angeles, finger some of the biggest and most influential public agency associations in their January complaint.

In it, they accuse the League of California Cities, the California State Association of Counties and the California Redevelopment Association of using public funds for partisan campaigns and of concealing the identity of donors to their political action committees.

The alleged scheme is complicated, so bear with me.

All three associations have established so-called "major donor" accounts and used them to contribute millions in support of Prop. 99. Major donor accounts are a special kind of political action committee. Unlike typical PACs, which hold fundraisers, major donor accounts are for wealthy individuals or businesses that aren't out raising money, they're simply spending their own.

Major donors don't need to report who contributes to them because, by their very nature, nobody does.

Campbell and the others, however, don't believe the associations actually

qualify as major donors because their primary revenue isn't from the sale of widgets but rather membership fees from local governments.

What's to say a membership fee isn't really just a campaign contribution in disguise?

Case law, by the way, suggests taxpayer dollars may not be spent on political campaigns. In the 1976 *Stanson v. Mott* case, the California Supreme Court ruled that a public agency may not spend public funds to advocate a partisan position in a campaign.

That could make it illegal for the associations to funnel money from local governments into their campaign accounts, although the Fair Political Practices Commission says the issue of public money and political speech is fuzzy.

Whatever the case, the associations say they don't use taxpayer dollars. Instead, they say the funds in the major donor accounts come from other sources – like advertising revenue from association magazines.

In fact, the associations label their major donor accounts as "non-public funds" accounts.

This is interesting for a couple of reasons.

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According to my calculations, the three associations' major donor accounts combined have contributed \$3.4 million to support Prop. 99 and \$4.8 million to oppose Prop. 90 in 2006. Do association magazines make big money?

And speaking of which, where did they get the money to publish the magazines in the first place? Presumably from membership fees – tax dollars. Campbell and the others maintain it's just as improper for the associations to use public funds to generate more money for political campaigns as it is to funnel public money directly into a campaign.

"I think they have become very adept at obscuring the source of some of those funds," said Coupal of Howard Jarvis. "This should concern not only conservative groups, but also groups concerned with transparency in campaigns."

The Fair Political Practices Commission, which is chaired by former OC Sen. Ross Johnson, has agreed to investigate the matter. I asked to speak with Johnson about the complaint but commission spokesman Roman Porter told me that since commission members act like judges, they aren't aware of complaints unless staff decides to bring the case before the commission for a ruling.

I also asked Porter if he could tell me why the commission has decided to look into the case, but he said he couldn't say much more than "We've received a complaint. The complaint was filed as a formal complaint. We've responded to the complainant that we're moving forward" with an inquiry.

The associations, however, were willing to talk. Sorta.

I contacted each of the organizations individually and got a few brief e-mail responses – "These allegations are baseless and a waste of good taxpayers' money to investigate," California Redevelopment Association Director John Shirey wrote. But eventually I was contacted by Kathy Fairbanks, spokeswoman for the No on Prop. 98/Yes on Prop. 99 campaign.

Fairbanks said she was asked to talk to me because the associations believe the complaint is politically motivated.

"It's obviously a campaign ploy," she said. "It's a non-issue."

Fairbanks told me the associations "segregate their funds very carefully" and don't use public money on political campaigns.

I asked her a couple of specific questions

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about where the associations got the money to start the magazines and about some documents I received that appeared to depict the league of cities' budget, but I was later told they wouldn't answer specific questions because of the pending complaint.

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Fairbanks said the other side must have filed the complaint because, "They're feeling the heat on some of the legitimate issues we're raising" about Prop. 98.

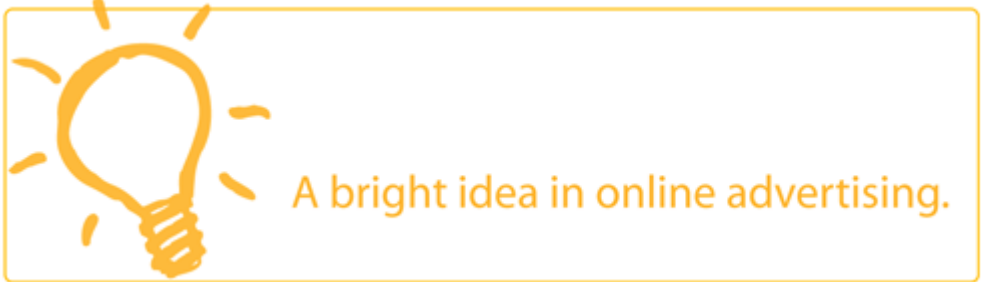
Fairbanks and her crew believe eliminating rent control, not fixing eminent domain, is the real goal of Prop. 98. Prop. 98 includes a provision to phase out rent control in California by requiring that rent controlled apartments move to market rate when they're vacated.

In fact, some of the biggest contributors to the Yes on Prop. 98 campaign are property owners and managers who presumably could benefit from the elimination of rent control, but they insist their focus is eminent domain reform.


So who are the good guys here? Beats me. We're going to have a tough decision in June.

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