

Comparison of proposed “CA Property Owners and Farmland Protection Act,” ACA 8, and the proposed “Homeowners and Private Property Protection Act”

PROVISIONS	PROPOSED 2008 “CALIFORNIA PROPERTY OWNERS AND FARMLAND PROTECTION ACT” (BALLOT MEASURE #07-0015)	PROPOSED LEGISLATION, ACA 8 & AB 887 (STATE LEGISLATION TO PLACE MEASURE ON STATE BALLOT)	PROPOSED 2008 “HOMEOWNERS AND PRIVATE PROPERTY PROTECTION ACT” (BALLOT MEASURE #07-0018)
STATUS	Submitted for Title & Summary on May 3, 2007.	Scheduled to be heard in the Assembly Judiciary Committee on July 10, 2007.	Submitted for Title & Summary on May 14, 2007.
OVERVIEW	This is a statewide ballot measure co-sponsored by the Howard Jarvis Taxpayers Association, California Farm Bureau Federation and the California Alliance to Protect Private Property Rights. Will require signature gathering to be placed on June 2008 ballot.	Assemblymember Hector De La Torre (D-South Gate) introduced the current version of ACA 8 in late May 2007. ACA 8 requires a 2/3 vote of the state legislature to be placed on the statewide ballot in June 2008. The League of California Cities and its allies are behind this legislation, as Dan Walters discusses in his May 22, 2007 Sacramento Bee column .	This is a statewide ballot measure submitted by the League of California Cities and other groups who opposed Proposition 90. The provisions of this measure are similar, but not identical, to those of ACA 8. The League introduced this measure as an “insurance policy” in the event that ACA 8 is not approved by the legislature. Will require signature gathering to be placed on the June 2008 ballot.
“KELO” PROPERTY PROTECTIONS	Provides absolute “Kelo” protections for ALL property – prohibits government from seizing property from unwilling sellers and giving it to another private owner, a common practice among public agencies seeking greater sales tax revenue.	Would not provide absolute “Kelo” protections for private property. Measure contains considerable loopholes or exceptions that leading property right experts believe render any stated protections meaningless. The Institute for Justice , who represented Ms. Kelo before the Supreme Court, says this measure will “do little to prevent the actual taking of property in California.”	Same as ACA 8. The Legislative Analyst’s Office analysis of this measure from June 19, 2007 stated that it “is not likely to significantly alter current government land acquisition practices.”
SMALL BUSINESS PROTECTIONS	Protected from being taken for transfer to another private owner.	Limited protections for small businesses with fewer than 25 employees. Redevelopment agencies can seize properties after thirty days if the property owners can’t comply with the project’s standards or secure funding.	No business protections.

FARMLAND PROTECTIONS	Prohibits government's ability to seize private property, including farmland, for private purposes or same use.	No such protections in this measure.	No such protections in this measure.
PROTECTIONS FOR PLACES OF WORSHIP AND OTHER PRIVATE PROPERTY	Prohibits government's ability to seize private property for private purposes. This protection includes places of worship.	No such protections in this measure. Would allow continued abuses such as that of the Baptist Church that the City of Long Beach tried to condemn to build condominiums. See the March 2006 Baptist Press article .	No such protections in this measure.
SAME USE – "Conaway Ranch Provision"	To address situations like Conaway Ranch in Yolo County, this measure specifies that property may not be taken by a public agency for the same use as the existing owner (Sec. 3(b)(4)(ii)). For example, an apartment complex cannot be seized to provide affordable housing.	No such provisions in this measure or protections for farmland. For details on Yolo County's plan to seize Conaway Ranch, read Dan Weintraub's column in the July 28, 2005 Sacramento Bee .	No such provisions in this measure or protections for farmland.
ABANDONMENT CLAUSE	To address abuses like those of Cal-Trans in Orange County , this measure provides that if the stated purpose for the property is ever abandoned, the property will be offered to the original owner at the price at which it was taken. It will also be taxed at the pre-condemnation value (Sec. 3(e)).	Provides the original owner the opportunity to repurchase if property is no longer needed for a public use. Owner occupied homes will be offered at the assessed value at the time it was taken. Any other property will be offered at current fair market value (Sec. 2(g)). All properties will be taxed at the assessed value at the time of repurchase.	No such provisions in this measure.
QUICK TAKE PROTECTION	Should a public agency exercise a "quick take" (a procedure where the agency takes immediate possession of the property), the owner is entitled to prompt release of the money offered while keeping the right to challenge the sufficiency of this amount (Sec. 3(b)(7)).	No such provisions in this measure to protect individuals with limited means, who may rely on the money provided at the time of the taking and as a result, lose the right to seek greater compensation.	No such provisions in this measure.

LENGTH OF RESIDENCE	This measure would apply protections to all property owners, with no conditions placed on the length of time which they have occupied or owned the property.	Would only apply to owner-occupied residences that have been the owner's principal place of residence for <u>at least one year</u> prior to an offer to purchase being made.	Same as ACA 8.
JUST COMPENSATION	Defines just compensation as fair market value as determined by an independent appraiser. A property owner is also entitled to reasonable costs and attorney fees if a court ruling determines the value to be more than the amount offered. Owner is also entitled to compensation for temporary business losses, relocation expenses and other reasonable expenses incurred by the owner as a result of eminent domain action (Sec. 3(b)(6)).	Defines just compensation for a small business seized by eminent domain as reasonable relocation expenses or fair market value of the small business. Additionally, AB 887 would provide for payment of 125% of the value of the business <u>only</u> if it is determined that the business cannot be relocated and remain economically viable.	This measure does not change the current definition of just compensation. As such, an owner would not be entitled to reimbursement for expenses (legal or otherwise) incurred as a result of eminent domain action. Additional reimbursement would be at the discretion of the condemning agency (Sec. 3-4).
"INCIDENTAL" PRIVATE USES	Defines public use as "use and ownership" by a public agency or public utility. Does not extend the use of property taken by eminent domain to any private individual except for "leasing limited space for private uses incidental to the stated public use" (Sec. 3(b)(3)). An example of such a permitted use would be the operation of a cafeteria inside a public building.	Allows for private use of property "incidental to, or necessary for" a public work. For example, private homes could be declared "incidental" to the construction of a sports arena and be replaced with retail to help finance the construction of the arena.	Same as ACA 8.
POISON PILL	No such provision	It is rumored that a poison pill provision will be added during the legislative process so that if two eminent domain measures appear on the ballot at the same time, the one with the most votes becomes law. This provision is intended to undermine the stronger property rights provisions included in the CA Property Owners and Farmland Protection Act (#07-0015).	This measure contains a controversial poison pill provision (Sec.9) similar to that which may be added to ACA 8. The provision would deprive Californians of additional property rights protections, even if those additional protections are approved by a majority of California voters.

RENT REGULATION	While this measure will limit government's ability to mandate the amount a property owner can charge to sell or lease his property, it will not affect any existing rental agreements. This measure allows property owners to reassess rent at the time the unit is vacated and the existing agreement is terminated. Nothing in this measure prevents government from providing other options for affordable housing. (Sec. 6).	This measure does not include provisions to protect a property owner from government's ability to regulate the price a property owner can sell or lease real property.	Same as ACA 8.
COSTS TO TAXPAYERS	According to the State Legislative Analyst's Office, the fiscal effect on state and local governments "probably would not be significant."	Unknown at this time	The Legislative Analyst's Office concludes that this measure "would likely not have a significant fiscal impact on state or local governments."
"REGULATORY TAKINGS"	Do not contain any "regulatory taking" provisions, as seen in Prop. 90		
PUBLIC PROJECTS	Would allow for condemnation of property for true public projects. Without Prop. 90's costly "regulatory taking" provisions, the cost of land use decisions and public projects will not place any additional burden on taxpayers.		
HEALTH AND PUBLIC SAFETY	Public agencies maintain the ability to abate public nuisances and close down sites of criminal activity.		
ENVIRONMENT	Will not affect governments' ability to implement reasonable land-use planning or zoning restrictions		
WORK PLACE REGULATIONS	Do not include regulatory provisions that invite frivolous lawsuits against labor or work place regulations.		