

## Comparison of Prop. 90 and Proposed “CA Property Owners and Farmland Protection Act”

PROVISIONS	PROP. 90 – “PROTECT OUR HOMES ACT” (DEFEATED 2006 BALLOT)	PROPOSED 2008 “CALIFORNIA PROPERTY OWNERS AND FARMLAND PROTECTION ACT”
<b>“KELO” PROVISIONS</b>	Both measures would prohibit the government’s ability to profit by seizing private property from an unwilling seller and giving it to another private entity, a common practice among public agencies seeking greater sales tax revenue.	
<b>“REGULATORY TAKINGS”</b>	By requiring the government to pay compensation whenever planning or zoning regulations limit the types of uses that may be built or the height of such structures, Prop. 90 would have seriously constrained the ability of government to regulate land use. These “regulatory taking” provisions were among the most controversial aspects of Prop. 90, and opponents claimed they would have dramatically increased the cost of government and the volume of litigation.	No such provisions in the California Property Owners and Farmland Protection Act.
<b>SAME USE</b>	No such provisions in Proposition 90.	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 (Art. 1, §19(b)(3)(ii).) For example, an apartment complex cannot be seized to provide affordable housing.
<b>ABANDONMENT CLAUSES</b>	Proposition 90 gave the original owner a right to repurchase his property at current fair market value if the stated public use was abandoned. Prop. 90 was criticized (1) because it created this right in perpetuity, extending it to all future heirs and beneficiaries, thus requiring the government to locate and determine the fractional interests of potentially hundreds of individuals should it ever abandon its original stated use, and (2) because it gave government an incentive to seize property at the start of a market upswing, then abandon the property after profiting from the appreciation.	To address abuses like those of Cal-Trans in Orange County, this measure provides that if the stated purpose for the property is 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. (Art. 1, §19(e).) However, the government does not need to track down heirs after the original owner’s death.

<b>QUICK TAKE PROTECTION</b>	No such provisions in Proposition 90.	Should a public agency exercise a “quick take” (a procedure where the agency seizes immediate possession of the property), the owner is entitled to prompt release of the money offered while maintaining the right to challenge the sufficiency of this amount. (Art. 1, §19(b)(6).)
<b>PUBLIC PROJECTS</b>	Prop. 90 threatened government’s ability to use eminent domain to acquire property for legitimate public projects such as roads, schools, parks and libraries, including voter approved projects authorized by existing state and local bonds, by driving up the cost of such property through its requirement that the property be valued not at its current use, or even its zoned potential, but at its “highest and best use.”	This measure maintains the current standard of “fair market value.”
<b>PROPERTY OWNERS</b>	Could have threatened property values in many ways: Prop. 90 would have made community projects such as schools, parks, and public safety facilities cost prohibitive. Prop. 90 could have relieved developers from providing necessary infrastructure, such as widened roads, to accommodate the population growth that comes with new subdivisions. And Prop. 90 would have made it difficult to prohibit incompatible uses from locating near homes, bringing with it noise, traffic, litter, overspray, or late-night operations.	Does not include Prop. 90’s “highest and best use” measure of compensation, or its “regulatory taking” provisions, both of which threatened neighborhood projects, public infrastructure, and land use planning, essential to quality of life and the protection of property values.
<b>HEALTH AND PUBLIC SAFETY</b>	Could have limited local government’s ability to condemn property that is the site of criminal activity, such as a meth lab or house of prostitution.	Public agencies maintain the ability to abate public nuisances and close down sites of criminal activity (Art. 1, §19(f).)
<b>ENVIRONMENT</b>	Threatened zoning restrictions and public projects that government uses to protect open space and wetlands, and to reduce traffic and urban sprawl.	Does not affect governments’ ability to implement land-use planning or zoning restrictions.

<b>TAXPAYERS</b>	Included a “highest and best use” measure of compensation and “regulatory taking” provisions that could have made land use decisions and public projects much more expensive, and surely would have increased the volume of costly litigation.	Without Prop. 90’s costly “regulatory taking” and “highest and best use” provisions, taxpayers are not burdened.
<b>LABOR AND WAGES</b>	Could have prohibited living wage ordinances or work place regulations.	This measure does not include the provisions that could have invited frivolous lawsuits against labor or work place regulations.
<b>AGRICULTURE/ OPEN SPACE</b>	Threatened zoning and land use decisions that protect farming, grazing, and forest land, yet contained no provision protecting such land from being seized by government in order to plunder its resources.	This measure preserves government’s authority to protect farm, grazing, and forest land, but prohibits government from taking private property in order to harvest its natural resources. (Art. 1, §19(b)(3)(ii).)
<b>RENT REGULATION</b>	Could have immediately banned rent regulation, condominium conversions and affordable housing requirements.	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 rent limit on existing tenants unless and until they choose to vacate their unit or space. Nothing in this measure prevents government from providing other options for affordable housing. (Sec. 6.)
<b>COURTS</b>	Would have thrown judicial decisions and jury awards into confusion by providing that trial court judgments on eminent domain matters become “null and void” if not appealed, or if the appellate opinion is not certified for publication.	No such provisions in the California Property Owners and Farmland Protection Act.
<b>JUST COMPENSATION</b>	Besides placing the owner in the same position financially as if the property had never been taken, Prop. 90 would have given property owners a windfall at taxpayer expense by requiring that compensation be measured as if the property could be, and had been, put to its “highest and best use.”	Defines just compensation as fair market value. A property owner is entitled to reasonable costs and attorney fees if a court ruling determines the government offered too little. Owner is also entitled to compensation for temporary business losses, relocation expenses, business reestablishment costs and other reasonable expenses actually and necessarily incurred by the owner as a result of eminent domain action. (Art. 1, §19(c).)

\* The text related to the implications of Prop. 90 reflect statements and/or analysis provided by the No on Prop. 90 campaign and do not necessarily reflect the views of proponents of the California Property Owners and Farmland Protection Act.