



CALIFORNIA ALLIANCE TO PROTECT PRIVATE PROPERTY RIGHTS

California Property Owners and Farmland Protection Act – Key Points

Proposed 2008 Constitutional Amendment Ballot Measure

Eminent domain reforms are needed.

Congress and the California State Legislature have failed to provide property owners protections against all too common examples of eminent domain abuse, such as government's ability to profit by seizing private property from unwilling sellers to give to another, often for development projects that benefit the wealthy and politically connected.

As a result, the Alliance has joined the Howard Jarvis Taxpayers Association and the California Farm Bureau Federation in sponsoring the "California Property Owners and Farmland Protection Act". The proposed Constitutional Amendment will require 694,354 signatures to qualify for the June 2008 ballot.

Private Property may not be taken for private use.

Under the California Property Owners and Farmland Protection Act, private property could not be seized as a means to transfer ownership to another person or entity other than a public agency or for a use which provides an economic benefit to an individual at the expense of the original owner. This would prevent situations like that of the Baptist church in Long Beach that was being threatened with eminent domain so that the property could be handed over to a developer to build upscale condos that would attract more tax revenue for the city.

Private Property may not be taken and used for the same use.

The California Property Owners and Farmland Protection Act would prohibit the seizure of private property for transfer to a public agency for the same use as that of the private owner, as was the case when Yolo County, in Northern California, sought to profit by seizing the 17,000 acre Conaway Ranch for its farming operation and water rights. The county intended to use a loan from a local tribal casino to finance the taking.

Right of first Refusal.

A private owner from which property was taken will be offered the option to purchase the property back, at the price at which it was taken, if the stated public use for the property is ever abandoned. If property is reacquired by the former owner under this provision, the property will be taxed at its pre-condemnation value. The Orange County Register exemplified the benefit of this provision with their series on Caltrans use of eminent domain to seize numerous homes and properties across the state for freeways which were never built. Many of these homes have remained vacant and deteriorating, in some cases for over 30 years.

Protects property rich in natural resources.

Private Property would be protected from seizure by a public agency for the use of natural resources located on the property.

Right of Property owner to just compensation and prompt release of funds.

When private property is taken for public uses, the private owner will receive fair market value for the property. Additionally, the property owner is entitled to compensation for temporary business losses, relocation expenses and reimbursement of reasonable attorney fees if a court finds the fair market value of the property is more than what was offered.

The property owner is also entitled to prompt release of funds – meaning an owner can have immediate possession of the money offered while maintaining the right to challenge the determination of this amount as fair market value.

Ensures a property owners right to fair value for the use of property.

It is an infringement on private property rights to place the burden of affordable housing solely on an individual property owner through rent regulations. The California Property Owners and Farmland Protection act will allow property owners the freedom to control the price at which they rent or sell their property. This measure will remove existing rent regulations or rent control restrictions on property owners only after the tenant vacates the property.

Does not limit public projects, nor does it include Prop. 90's "regulatory taking" provisions.

In contrast to Proposition 90, which appeared on the November 2006 ballot, nothing in this measure affects a public agency's ability to enact land-use planning, zoning, or use restrictions. Therefore, public agencies would be able to implement planning decisions without the threat of costly legal action. The measure also maintains the current standard of compensating property owners at fair market value, and not at "highest and best use," as proposed in Prop. 90.