



DEBRA BOWEN | SECRETARY OF STATE
STATE OF CALIFORNIA | ELECTIONS

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April 20, 2007

TO: ALL COUNTY CLERKS/REGISTRARS OF VOTERS/PROPONENTS
(07052)

FROM: 
KATHERINE MONTGOMERY
Elections Analyst

SUBJECT: INITIATIVE #1242

Pursuant to Elections Code section 336, we transmit herewith a copy of the Title and Summary prepared by the Attorney General on a proposed initiative measure entitled:

**GOVERNMENT ACQUISITION,
REGULATION OF PRIVATE PROPERTY.
CONSTITUTIONAL AMENDMENT.**

The proponents of the above-named measure are:

Doug Mosebar
Jon Coupal
Jim Nielsen
921 11th Street, Suite 1201
Sacramento, CA 95814

(916) 444-9950

#1242

GOVERNMENT ACQUISITION,
REGULATION OF PRIVATE PROPERTY.
CONSTITUTIONAL AMENDMENT.

CIRCULATING AND FILING SCHEDULE

1. Minimum number of signatures required: 694,354
California Constitution, Article II, Section 8(b)
2. Official Summary Date: Friday, 04/20/07
3. Petitions Sections:
 - a. First day Proponent can circulate Sections for
signatures (EC §336)..... Friday, 04/20/07
 - b. Last day Proponent can circulate and file
with the county. All sections are to be filed at the
same time within each county (EC §336, 9030(a))Monday, 09/17/07
 - c. Last day for county to determine total number of
signatures affixed to petitions and to transmit total
to the Secretary of State (EC §9030(b)).....Thursday, 09/27/07

(If the Proponent files the petition with the county on a date prior to
09/17/07, the county has eight working days from the filing of the petition
to determine the total number of signatures affixed to the petition and to
transmit the total to the Secretary of State) (EC §9030(b)).
 - d. Secretary of State determines whether the total number
of signatures filed with all county clerks/registrars of
voters meets the minimum number of required signatures
and notifies the counties Saturday, 10/06/07*
 - e. Last day for county to determine total number of qualified
voters who signed the petition, and to transmit certificate
with a blank copy of the petition to the Secretary of State
(EC §9030(d)(e))..... Tuesday, 11/20/07

*Date varies based on the date of county receipt.

INITIATIVE #1242
Circulating and Filing Schedule continued:

(If the Secretary of State notifies the county to determine the number of qualified voters who signed the petition on a date other than 10/06/07, the last day is no later than the thirtieth working day after the county's receipt of notification). (EC §9030(d)(e)).

- f. If the signature count is more than 763,790 or less than 659,637 then the Secretary of State certifies the petition as qualified or failed, and notifies the counties. If the signature count is between 659,637 and 763,790 inclusive, then the Secretary of State notifies the counties using the random sampling technique to determine the validity of all signatures (EC §9030(f)(g); 9031(a))..... Friday, 11/30/07*
- g. Last day for county to determine actual number of all qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State. (EC §9031(b)(c))...... Tuesday, 01/15/08

(If the Secretary of State notifies the county to determine the number of qualified voters who have signed the petition on a date other than 11/30/07, the last day is no later than the thirtieth working day after the county's receipt of notification)
(EC §9031(b)(c)).

- h. Secretary of State certifies whether the petition has been signed by the number of qualified voters required to declare the petition sufficient (EC §9031(d); 9033)..... Saturday, 01/19/08*

*Date varies based on the date of county receipt.

IMPORTANT POINTS

- California law prohibits the use of signatures, names and addresses gathered on initiative petitions for any purpose other than to qualify the initiative measure for the ballot. This means that the petitions cannot be used to create or add to mailing lists or similar lists for any purpose, including fundraising or requests for support. Any such misuses constitutes a crime under California law. Elections Code section 18650; *Bilofsky v. Deukmejian* (1981) 124 Cal. App. 3d 825, 177 Cal. Rptr. 621; 63 Ops. Cal. Atty. Gen. 37 (1980).
- Please refer to Elections Code sections 100, 101, 104, 9001, 9008, 9009, 9021, and 9022 for appropriate format and type consideration in printing, typing and otherwise preparing your initiative petition for circulation and signatures. Please send a copy of the petition after you have it printed. This copy is not for our review or approval, but to supplement our file.
- Your attention is directed to the campaign disclosure requirements of the **Political Reform Act of 1974**, Government Code section 81000 et seq.
- When writing or calling state or county elections officials, provide the official title of the initiative which was prepared by the Attorney General. Use of this title will assist elections officials in referencing the proper file.
- When a petition is presented to the county elections official for filing by someone other than the proponent, the required authorization shall include the name or names of the persons filing the petition.
- When filing the petition with the county elections official, please provide a blank petition for elections official use.

EDMUND G. BROWN JR.
Attorney General

State of California
DEPARTMENT OF JUSTICE



1300 I STREET, SUITE 125
P.O. BOX 944255
SACRAMENTO, CA 94244-2550

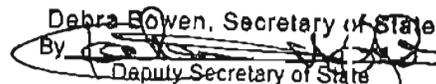
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April 20, 2007

FILED
In the office of the Secretary of State
of the State of California

APR 20 2007

Debra Bowen
Secretary of State
1500 - 11th Street, 5th Floor
Sacramento, CA 95814

Debra Bowen, Secretary of State
By 
Deputy Secretary of State

RE: Title and Summary for Initiative No. 07-0003
TITLE: GOVERNMENT ACQUISITION, REGULATION OF PRIVATE PROPERTY.
CONSTITUTIONAL AMENDMENT.

Dear Ms. Bowen:

Pursuant to the provisions in sections 336 and 9004 of the Elections Code, enclosed please find a copy of the Title and Summary issued for Initiative Number 07-0003 and text of the proposed measure.

Should you have any questions regarding the above, please do not hesitate to contact me.

Sincerely,



TONI MELTON
Initiative Secretary

For EDMUND G. BROWN JR.
Attorney General

Proponents' public information:

Jon Coupal
Jim Nielsen
Doug Mosebar
c/o Jon Coupal
Howard Jarvis Taxpayers Association
921 Eleventh Street, Suite 1201
Sacramento, CA 95814

Telephone: 916 445-9950

Enclosures

Date: April 20, 2007
Initiative No. 07-0003
Amendment No. 1S

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

GOVERNMENT ACQUISITION, REGULATION OF PRIVATE PROPERTY.

CONSTITUTIONAL AMENDMENT. Bars state and local governments from condemning or damaging private property for private uses. Prohibits rent control and similar measures.

Requires government to compensate private property owners for certain land use, housing and environmental regulations. Exempts compensation for regulation undertaken to preserve public health and safety. Defines "just compensation." Prohibits deference to government in property rights cases. Requires government to offer to original owner of condemned property the right to repurchase property at condemned price when property is put to substantially different use than was publicly stated. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: Unknown, probably major annual governmental costs to compensate property owners for reductions in property values. (Initiative 07-0003.)

HOWARD JARVIS
TAXPAYERS
ASSOCIATION



HOWARD JARVIS, Founder (1903-1986)
ESTELLE JARVIS, Honorary Chairwoman
JON COUPAL, President
TREVOR GRIMM, General Counsel
TIMOTHY BITTLE, Director of Legal Affairs

Amdt. #1S

February 28, 2007

RECEIVED

FEB 28 2007

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Ms. Patrician Galvan
Initiative Coordinator
Attorney General's Office
1515 K Street, 6th Floor
Sacramento, CA 95814

Re: Proposed Initiative No. 07-0003

Dear Ms. Galvan,

Enclosed please find the complete text of an amended version of Proposed Initiative No. 07-0003, which we submitted for title and summary on or about February 13, 2007. Please substitute this version for the one previously filed. Thank you for assistance. If there is a problem, or if you have any questions, please call Jon Coupal at 916-444-9950.

Sincerely,

Doug Moscar
President, California
Farm Bureau Federation

Jon Coupal
President, Howard Jarvis
Taxpayers Association

Jim Nielsen
Chairman, Cal. Alliance to
Protect Private Property
Rights

SECTION 1. STATEMENT OF FINDINGS

(a) Our state Constitution provides that all people have inalienable rights including the right to acquire, possess, and protect property.

(b) Our Constitution further provides that no person shall be deprived of property without due process of law.

(c) Finally, our Constitution provides that private property may not be taken or damaged by government except for public use and only after just compensation has been paid to the property owner.

(d) Notwithstanding these clear constitutional guarantees, the courts have not protected our rights from being violated by state and local governments through the exercise of their powers to take and regulate private property.

(e) For example, the United States Supreme Court, in *Kelo v. City of New London*, permitted a city to use eminent domain to take private property for the purpose of transferring ownership to a private developer. In another recent case, the Court allowed the government to impose regulations on the price an owner could charge for its property, with no requirement that the regulations advance a legitimate government interest.

SECTION 2. STATEMENT OF PURPOSE

(a) State and local governments may use their power to take and regulate private property only for public uses, such as roads, parks, and public facilities, for land-use planning and zoning, or to preserve the health and safety of their citizens.

(b) When state or local governments take or regulate private property for public uses, the owner shall receive just compensation for what has been taken or damaged.

(c) Therefore, the people of the state of California hereby enact the "California Property Owners Protection Act."

SECTION 3. AMENDMENT TO CALIFORNIA CONSTITUTION

Section 19 of Article I of the California Constitution is amended to read:

SEC. 19(a) Private property may be taken or damaged only for a stated public use and when just compensation, ascertained by a jury unless waived, has first been paid to, or into court for, the owner. The Legislature may provide for

possession by the condemnor following commencement of eminent domain proceedings upon deposit in court and prompt release to the owner of money determined by the court to be the probable amount of just compensation. Private property may not be taken or damaged for private use.

(b) For purposes of this section:

(1) "Taken" includes the transfer of ownership, occupancy or use of property from a private owner to a public agency or to any person or entity other than a public agency.

(2) "Damaged" includes actions by a public agency denying reasonably expected, economically viable or productive uses of real property by the owner. It does not mean such actions that are undertaken:

(i) to preserve the health and safety of its citizens, including the abatement of public nuisances or criminal activity; or

(ii) as land-use planning, zoning, or use restrictions that substantially advance a legitimate government interest and do not deny a private owner economically viable or productive use of his property, including his reasonable investment-backed expectations;

provided such actions under subdivision (i) or (ii) do not limit the price a property owner may charge another person to purchase, occupy or use his real property; or

(iii) to preserve land for, or to protect land from encroaching uses that would jeopardize its use for, customary husbandry practices in the raising of food, fiber, livestock, or other agricultural products, including timber.

(3) "Public use" means:

(i) use and ownership by a public agency or a regulated public utility for the public use stated at the time of the taking, including public facilities, public transportation, and public utilities; or

(ii) primarily for the use, enjoyment, or protection of the public generally;

except that nothing herein prohibits leasing limited space for private uses incidental to the stated public use; nor is the exercise of eminent domain prohibited to restore utilities or access to a public road for any private property which is cut off from utilities or access to a public road as a result of a taking for public use as otherwise defined herein.

(4) “Private use” means:

(i) transfer of ownership, occupancy or use of private property or associated property rights to any person or entity other than a public agency or a regulated public utility;

(ii) transfer of ownership, occupancy or use of private property or associated property rights to a public agency for the consumption of natural resources or for the same or a substantially similar use as that made by the private owner; or

(iii) regulation of the ownership, occupancy or use of privately owned real property or associated property rights in order to transfer an economic benefit to one or more private persons at the expense of the property owner.

(5) “Public agency” means the state, special district, county, city, city and county, including a charter city or county, and any other local or regional governmental entity, municipal corporation, public agency-owned utility or utility district, or the electorate of any public agency.

(6) “Just compensation” means:

(i) for property or associated property rights taken, its fair market value; or

(ii) for property or associated property rights damaged, the value fixed by a jury, or by the court if a jury is waived; and

(iii) an award of reasonable costs and attorney fees from the public agency if the property owner obtains a judgment for more than the amount offered by a public agency as defined herein; and

(iv) any additional actual and necessary amounts to compensate the property owner for temporary business losses, relocation expenses, business reestablishment costs, other actual and reasonable expenses incurred and other expenses deemed compensable by the Legislature.

(7) “Prompt release” means that the property owner can immediately have possession of the money deposited by the condemnor without prejudicing his right to challenge the determination of fair market value or his right to challenge the taking as being for a private use.

(8) “Owner” includes a lessee whose property rights are taken or damaged.

(9) “Regulated public utility” means any public utility as described in Article XII, section 3 that is regulated by the California Public Utilities Commission and is not

owned or operated by a public agency. Regulated public utilities are private property owners for purposes of this article.

(c) In any action by a property owner challenging the validity of a taking or damaging of his property under this section, the court shall consider all relevant evidence and exercise its independent judgment, not limited to the administrative record and without deference to the findings of the public agency. The property owner shall be entitled to an award of reasonable costs and attorney fees from the public agency if the court finds that the agency's actions are not in compliance with this section.

(d) Nothing in this section prohibits a public agency or regulated public utility from reaching an agreement with a private property owner regarding its action or proposed action, including the repeal or amendment of the action, or payment of just compensation.

(e) If property is acquired by a public agency through eminent domain, then before the agency may put the property to a use substantially different from the stated public use, or convey the property to another person or unaffiliated agency, the condemning agency must make a good faith effort to locate the private owner from whom the property was taken, and make a written offer to sell the property to him at the price which the agency paid for the property, increased only by the fair market value of any improvements, fixtures, or appurtenances added by the public agency, and reduced by the value attributable to any removal, destruction or waste of improvements, fixtures or appurtenances that had been acquired with the property. If property is repurchased by the former owner under this subdivision, it shall be taxed based on its pre-condemnation enrolled value, increased or decreased only as allowed herein, plus any inflationary adjustments authorized by subdivision (b) of Section 2 of Article XIII A. The right to repurchase shall apply only to the owner from which the property was taken, and does not apply to heirs or successors of the owner or, if the owner was not a natural person, to an entity which ceases to legally exist.

(f) Nothing in this section prohibits the California Public Utilities Commission from regulating public utility rates.

(g) Nothing in this section shall restrict the powers of the Governor to take or damage private property in connection with his powers under a declared state of emergency.

SECTION 4. IMPLEMENTATION AND AMENDMENT

This section shall be self-executing. The Legislature may adopt laws to further the purposes of this section and aid in its implementation. No amendment

to this section may be made except by a vote of the people pursuant to Article II or Article XVIII.

SECTION 5. SEVERABILITY

The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SECTION 6. EFFECTIVE DATE

This section shall become effective the day following the election pursuant to section 10(a) of Article II, except that any action by a public agency enacted prior to January 1, 2007, that limits the price a property owner may charge a tenant to occupy residential property may remain in effect until the first day of the thirty-seventh month following the effective date of this section; provided that if, at any time after the effective date of this section, an individual rental unit or mobile home space is vacated by all the tenants thereof, then this section shall be effective immediately as to that unit or space.