



**DEBRA BOWEN** | SECRETARY OF STATE  
STATE OF CALIFORNIA | ELECTIONS

1500 11th Street, 5th Floor | Sacramento, CA 95814 | Tel (916) 657-2166 | Fax (916) 653-3214 | www.sos.ca.gov

January 22, 2007

TO: ALL COUNTY CLERKS/REGISTRARS OF VOTERS/PROponents  
(07013)

FROM:

  
KATHERINE MONTGOMERY  
Elections Analyst

SUBJECT: **INITIATIVE #1234**

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.  
INITIATIVE CONSTITUTIONAL AMENDMENT.**

The proponent of the above-named measure is:

Jon Coupal  
921 11<sup>th</sup> Street, Suite 1201  
Sacramento, CA 95814

(916) 444-9950

GOVERNMENT ACQUISITION,  
REGULATION OF PRIVATE PROPERTY.  
INITIATIVE 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: ..... Monday, 01/22/07
3. Petitions Sections:
  - a. First day Proponent can circulate Sections for  
signatures (EC §336) ..... Monday, 01/22/07
  - 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)) ..... Thursday, 06/21/07
  - 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)) ..... Tuesday, 07/03/07  

(If the Proponent files the petition with the county on a date prior to  
06/21/07, 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 ..... Thursday, 07/12/07\*
  - 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)) ..... Thursday, 08/23/07

\*Date varies based on the date of county receipt.

INITIATIVE #1234

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 07/12/07, 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))..... Sunday, 09/02/07\*

- 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, 10/16/07

(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 09/02/07, 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, 10/20/07\*

\*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 944253  
SACRAMENTO, CA 94244-2550

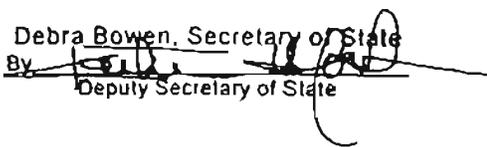
Public: (916) 445-9555  
Telephone: (916) 445-4908  
Facsimile: (916) 324-8835  
E-Mail: Patricia.Galvan@doj.ca.gov

January 22, 2007

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

JAN 22 2007

Debra Bowen  
Secretary of State  
1500 - 11<sup>th</sup> Street, 5<sup>th</sup> Floor  
Sacramento, California 95814

Debra Bowen, Secretary of State  
By:   
Deputy Secretary of State

RE: Title and Summary for Initiative No. 06-0039  
TITLE: GOVERNMENT ACQUISITION, REGULATION OF PRIVATE PROPERTY.  
INITIATIVE CONSTITUTIONAL AMENDMENT.

Dear Ms. Bowen:

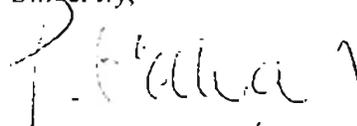
Pursuant to the provisions of sections 336 and 9004 of the Elections Code, enclosed please find a copy of the Title and Summary issued for Initiative Number 06-0039 and text of the proposed measure.

Below is proponents' available information:

**JON COUPAL**  
Howard Jarvis Taxpayers Association  
921 Eleventh Street, Suite 1201  
Sacramento, CA 95814  
Telephone: (916) 444-9950

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

Sincerely,



PATRICIA GALVÁN  
Statewide Initiative and Ballot Coordinator

For EDMUND G. BROWN JR.  
Attorney General

Enclosures

Date: January 22, 2007  
Initiative No. 06-0039

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. INITIATIVE CONSTITUTIONAL AMENDMENT. Amends California Constitution to bar 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, consumer, environmental and workplace regulations. Compensation generally not required for regulation undertaken to preserve public health and safety. Defines "just compensation." Prohibits deference to government in property rights cases. Condemned private property must be offered for resale to prior owner at current fair market value if, within five years, government abandons proposed condemnation's objective. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: Unknown, potentially major annual governmental costs related to damages or takings of private property. (06-0039.)

HOWARD JARVIS  
TAXPAYERS  
ASSOCIATION



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

November 21, 2005

Ms. Patricia Galvan  
Initiative Coordinator  
Attorney General's Office  
P.O. Box 944255  
1515 K Street, 6<sup>th</sup> Floor  
Sacramento, CA 95814

**RECEIVED**

NOV 21 2006

INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

Re: California Property Owners Protection Act

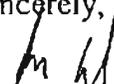
Dear Ms. Knight:

By this letter, I respectfully request the Attorney General to prepare a title and summary of the chief purpose and points of the California Property Owners Protection Act, a copy of which is attached. I am the proponent of this measure.

Any correspondence regarding this initiative should be directed to me at Howard Jarvis Taxpayers Association, 921 Eleventh Street, Suite 1201, Sacramento, CA 95814 (916) 444-9950. My resident address is attached to this letter.

Enclosed is the required \$200 filing fee as well as the certification as required by Elections Code Section 18650.

Thank you for your cooperation.

Sincerely,  


Jon Coupal  
President

## 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 *Lingle v. Chevron U.S.A. Inc.*, 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 for a stated public use when just compensation, ascertained by a jury unless waived, has first been paid to, or into court for, the owner. Private property may not be taken or damaged for private use. The Legislature may provide for possession by the condemnor following commencement of eminent domain proceedings upon deposit in court and prompt release to the property owner of money determined by the court to be the probable amount of just compensation.

(b) For purposes of this section:

(1) "Taken" includes the transfer of ownership 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 denying, in whole or in part, reasonably expected and economically viable uses of 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 use of his property, including his reasonable investment-backed expectations; or

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

"Damaged" also includes limiting the price a property owner may charge another person to purchase, occupy or use his or her property.

(3) "Public use" means:

(i) use and ownership by a public agency or an investor-owned public utility for the public use stated at the time of the taking, including public facilities, public transportation, and public utilities, except that limited private uses incidental to the stated public use shall not be prohibited; or

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

(4) "Private use" means:

(i) transfer of ownership or use of private property or associated property rights to any person or entity other than a public agency or an investor-owned public utility;

(ii) transfer of ownership or use of private property, associated property rights, or the property of an investor-owned public utility to a public agency for the same or a substantially similar use as that made by the private owner or investor-owned public utility; or

(iii) use which provides an economic benefit to one or more private persons at the expense of the private 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, public agency-owned utility or utility district, or the electorate of any public agency.

(6) "Just compensation" means:

(i) the fair market value of property or associated property rights taken; or

(ii) the value fixed by a jury, or by the court if a jury is waived, for damage to property; and

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

(iv) any additional amount authorized by statute to compensate the owner for temporary business losses, relocation expenses, or other consequences deemed compensable by the Legislature.

(7) "Prompt release" means that the property owner who does not object to a public agency's right to take can immediately have possession of the money deposited by the public agency without prejudicing his right to challenge the determination of fair market value.

(8) "Owner" includes any person or entity which possesses any interest in real property including all absolute or qualified ownership interests.

(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 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 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) Property taken for a stated public use by a public agency must be offered for sale to the private owner from which the property was taken, at the current fair market value, if the public agency has abandoned the stated public use within 5 years of the taking. If such property is reacquired by the former owner under this subdivision, the property shall be taxed based on its pre-condemnation enrolled value.

(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 the effective date of this section, that results in continuing damage to private property for private use shall be null and void as of the start of the next fiscal year following the effective date of this section. The provisions of this section shall apply immediately to any eminent domain proceeding by a public agency in which there has been no final adjudication.