



**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](http://www.sos.ca.gov)

July 5, 2007

TO: ALL COUNTY CLERKS/REGISTRARS OF VOTERS/PROPONENT  
(07089)

FROM:

  
KATHERINE MONTGOMERY  
Elections Analyst

SUBJECT: INITIATIVE #1251

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:

**EMINENT DOMAIN.  
ACQUISITION OF OWNER-OCCUPIED RESIDENCE.  
CONSTITUTIONAL AMENDMENT.**

The proponents of the above-named measure are:

Christopher K. McKenzie  
Susan Smartt  
Kenneth Willis  
c/o Steve Lucas  
Nielsen, Merksamer, Parrinello, Mueller & Naylor, LLP  
1415 L Street, Suite 1200  
Sacramento, CA 95814

(415) 389-6800

#1251

EMINENT DOMAIN.  
ACQUISITION OF OWNER-OCCUPIED RESIDENCE.  
CONSTITUTIONAL AMENDMENT.

CIRCULATING AND FILING SCHEDULE

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1. Minimum number of signatures required: ..... 694,354  
California Constitution, Article II, Section 8(b)
2. Official Summary Date: ..... Thursday, 07/05/07
3. Petitions Sections:
  - a. First day Proponent can circulate Sections for  
signatures (Elec. Code § 336) ..... Thursday, 07/05/07
  - b. Last day Proponent can circulate and file with the county.  
All sections are to be filed at the same time within each  
county. (Elec. Codes §§ 336, 9030(a)) ..... Monday, 12/03/07\*
  - c. Last day for county to determine total number of  
signatures affixed to petitions and to transmit total  
to the Secretary of State (Elec. Code § 9030(b)) ..... Thursday, 12/13/07  

(If the Proponent files the petition with the county on a date prior to  
12/03/07, 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) (Elec. Code § 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, 12/22/07\*\*
  - 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  
(Elec. Code § 9030(d)(e)) ..... Wednesday, 02/06/08

\* Date adjusted for official deadline, which falls on a Weekend (EC § 15).

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

INITIATIVE #1251

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 12/22/07, the last day is no later than the thirtieth working day after the county's receipt of notification). (Elec. Code § 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 (Elec. Code § 9030(f)(g); 9031(a)) ..... Saturday, 02/16/08\*
- 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. (Elec. Code § 9031(b)(c)). ..... Tuesday, 04/01/08

(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 02/16/08, the last day is no later than the thirtieth working day after the county's receipt of notification.) (Elec. Code § 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 (Elec. Code § 9031(d); 9033) ..... Saturday, 04/05/08\*

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

## IMPORTANT POINTS

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- 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

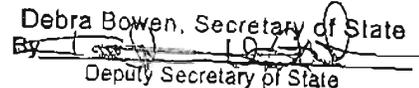
Public: (916) 445-9555  
Telephone: (916) 445-1968  
Facsimile: (916) 324-8835  
E-Mail: Toni.Melton@doj.ca.gov

July 5, 2007

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

JUL 05 2007

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

Debra Bowen, Secretary of State  
By  Deputy Secretary of State

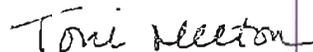
RE: Title and Summary for Initiative No. 07-0018  
TITLE: EMINENT DOMAIN. ACQUISITION OF OWNER-OCCUPIED RESIDENCE.  
CONSTITUTIONAL AMENDMENT.

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 07-0018 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

Enclosures

**Proponents' public information:**

Christopher K. McKenzie  
Susan Smartt  
Kenneth Willis  
c/o Steve Lucas  
Nielsen, Merksamer, Partinello, Mueller & Naylor, LLP  
1415 L Street, Suite 1200  
Sacramento, CA 95814

Telephone: 415 389 6800

Date: July 5, 2007  
Initiative No. 07-0018

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

EMINENT DOMAIN. ACQUISITION OF OWNER-OCCUPIED RESIDENCE.

CONSTITUTIONAL AMENDMENT. Bars state and local governments from using eminent domain to acquire an owner-occupied residence, as defined, for conveyance to a private person or business entity. Creates exceptions for public work or improvement, public health and safety protection, and crime prevention. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: The measure would likely not have a significant fiscal impact on state or local governments. (Initiative 07-0018.)

07-0018

May 10, 2007

RECEIVED

MAY 14 2007

INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

VIA PERSONAL DELIVERY

The Honorable Edmund G. Brown, Jr.  
Attorney General  
1300 I Street  
Sacramento, CA 95814

Attention: Patricia Galvan, Initiative Coordinator

Re: Request for Title and Summary- Initiative Constitutional Amendment

Dear Mr. Brown:

I am one of the proponents of the attached initiative constitutional amendment. Pursuant to Article II, Section 10(d) of the California Constitution and Section 9002 of the Elections Code, I hereby request that a title and summary be prepared. Enclosed is a check for \$200.00. My residence address is attached. I also withdraw Initiative No. 07-0006.

All inquires or correspondence relative to this initiative should be directed to Nielsen, Merksamer, Parrinello, Mueller & Naylor, LLP, 1415 L Street, Suite 1200, Sacramento, CA 95814; Attention: Steve Lucas (telephone: 415/389-6800).

Thank you for your assistance.

Sincerely,



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Kenneth Willis, Proponent

Enclosure: Proposed Initiative

May 10, 2007

RECEIVED

MAY 14 2007

INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICEVIA PERSONAL DELIVERY

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Thank you for your assistance.

Sincerely,

  
Susan Smartt, Proponent

Enclosure: Proposed Initiative

May 10, 2007

RECEIVED

MAY 14 2007

INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICEVIA PERSONAL DELIVERY

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Thank you for your assistance.

Sincerely,



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Christopher K. McKenzie, Proponent

Enclosure: Proposed Initiative

TITLE: This measure shall be known as the "Homeowners and Private Property Protection Act."

## SECTION 1: PURPOSE AND INTENT

By enacting this measure, the people of California hereby express their intent to:

- A. Protect their homes from eminent domain abuse.
- B. Prohibit government agencies from using eminent domain to take an owner-occupied home to transfer it to another private owner or developer.
- C. Amend the California Constitution to respond specifically to the facts and the decision of the U.S. Supreme Court in *Kelo v. City of New London*, in which the Court held that it was permissible for a city to use eminent domain to take the home of a Connecticut woman for the purpose of economic development.
- D. Respect the decision of the voters to reject Proposition 90 in November 2006, a measure that included eminent domain reform but also included unrelated provisions that would have subjected taxpayers to enormous financial liability from a wide variety of traditional legislative and administrative actions to protect the public welfare.
- E. Provide additional protection for property owners without including provisions, such as those in Proposition 90, which subjected taxpayers to liability for the enactment of traditional legislative and administrative actions to protect the public welfare.
- F. Maintain the distinction in the California Constitution between Section 19, Article I, which establishes the law for eminent domain, and Section 7, Article XI, which establishes the law for legislative and administrative action to protect the public health, safety and welfare.
- G. Provide a comprehensive and exclusive basis in the California Constitution to compensate property owners when property is taken or damaged by state or local governments, without affecting legislative and administrative actions taken to protect the public health, safety and welfare.

## SECTION 2: AMENDMENT TO THE CALIFORNIA CONSTITUTION

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

Sec. 19. (a) Private property may be taken or damaged for a public use and only 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.

(b) *The State and local governments are prohibited from acquiring by eminent domain an owner-occupied residence for the purpose of conveying it to a private person.*

*(c) Subdivision (b) of this Section does not apply when State or local government exercises the power of eminent domain for the purpose of protecting public health and safety; preventing serious, repeated criminal activity; responding to an emergency; or remedying environmental contamination that poses a threat to public health and safety.*

*(d) Subdivision (b) of this Section does not apply when State or local government exercises the power of eminent domain for the purpose of acquiring private property for a Public work or improvement.*

*(e) For the purpose of this Section:*

- 1. "Conveyance" means a transfer of real property whether by sale, lease, gift, franchise, or otherwise.*
- 2. "Local government" means any city, including a charter city, county, city and county, school district, special district, authority, regional entity, redevelopment agency, or any other political subdivision within the State.*
- 3. "Owner-occupied residence" means real property that is improved with a single family residence such as a detached home, condominium, or townhouse and that is the owner or owners' principal place of residence for at least one year prior to the State or local government's initial written offer to purchase the property. Owner-occupied residence also includes a residential dwelling unit attached to or detached from such a single family residence which provides complete independent living facilities for one or more persons.*
- 4. "Person" means any individual or association, or any business entity, including, but not limited to, a partnership, corporation, or limited liability company.*
- 5. "Public work or improvement" means facilities or infrastructure for the delivery of public services such as education, police, fire protection, parks, recreation, emergency medical, public health, libraries, flood protection, streets or highways, public transit, railroad, airports and seaports; utility, common carrier or other similar projects such as energy-related, communication-related, water-related and wastewater-related facilities or infrastructure; projects identified by a State or local government for recovery from natural disasters; and private uses incidental to, or necessary for, the Public work or improvement.*
- 6. "State" means the State of California and any of its agencies or departments.*

SECTION 3. By enacting this measure, the voters do not intend to change the meaning of the terms in subdivision (a) of Section 19, Article I of the California Constitution, including, without limitation, "taken," "damaged," "public use," and "just compensation," and deliberately do not impose any restrictions on the exercise of power pursuant to Section 19, Article I, other than as expressly provided for in this measure.

SECTION 4. The provisions of Section 19, Article I, together with the amendments made by this initiative, constitute the exclusive and comprehensive authority in the California Constitution for the exercise of the power of eminent domain and for the payment of compensation to property owners when private property is taken or damaged by state or local government. Nothing in this initiative shall limit the ability of the Legislature to provide compensation in addition to that which is required by Section 19 of Article I to property owners whose property is taken or damaged by eminent domain.

SECTION 5. The amendments made by this initiative shall not apply to the acquisition of real property if the initial written offer to purchase the property was made on or before the date on which this initiative becomes effective, and a resolution of necessity to acquire the real property by eminent domain was adopted on or before 180 days after that date.

SECTION 6. The words and phrases used in the amendments to Section 19, Article I of the California Constitution made by this initiative which are not defined in subdivision (d), shall be defined and interpreted in a manner that is consistent with the law in effect on January 1, 2007 and as that law may be amended or interpreted thereafter.

SECTION 7. The provisions of this measure shall be liberally construed in furtherance of its intent to provide homeowners with protection against exercises of eminent domain in which an owner-occupied residence is subsequently conveyed to a private person.

SECTION 8. The provisions of this measure are severable. If any provision of this measure 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 9. In the event that this measure appears on the same statewide election ballot as another initiative measure or measures that seek to affect the rights of property owners by directly or indirectly amending Section 19, Article I of the California Constitution, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and each and every provision of the other measure or measures shall be null and void.