

Agenda Report

April 7, 2008

TO: City Council

THROUGH: Legislative Policy Committee (March 25, 2008)

FROM: City Manager

SUBJECT: June 2008 Ballot Propositions Regarding Eminent Domain:
Support Proposition 99 (Homeowners Protection Act)
Oppose Proposition 98 (California Property Owners and Farmland Protection Act)

RECOMMENDATION:

It is recommended that the City Council oppose Proposition 98 (California Property Owners and Farmland Protection Act) and support Proposition 99 (Homeowners Protection Act).

BACKGROUND:

Eminent domain reform continues to be the subject of legislative debate following the Kelo vs. Connecticut Supreme Court decision of 2005. The California statewide June 2008 ballot contains two measures related to eminent domain: Proposition 99 (Homeowners Protection Act), sponsored by the League of California Cities, and Proposition 98 (California Property Owners and Farmland Protection Act) sponsored by the supporters of Proposition 90 (2006) and the Howard Jarvis Taxpayers Association.

Proposition 99

The Homeowners Protection Act is intended to provide solid protections for homeowners by prohibiting governments from taking an owner-occupied home to transfer to a private party. The Homeowners Protection Act would prohibit the use of eminent domain to acquire a single-family, owner-occupied home (the owner has lived there for more than a year) and transfer the property to a private party. It would still allow government to acquire property for traditional public works such as schools or roads. This prohibition, however, would not apply if government was taking the home to protect public health and safety or remedy environmental contamination that posed a threat to public health and safety.

A broad coalition is supporting the Homeowners Protection Act including seniors, homeowners, business, labor, environmentalists, affordable housing advocates, public safety leaders and local government.

Proposition 99 is supported by the City's legislative platform which states that the City supports efforts to reform eminent domain that are compatible with the principles of planning and redevelopment. If Proposition 99 receives more votes than Prop 98 it invalidates all the protections contained in that measure.

Proposition 98

This constitutional amendment seeks to limit the use of eminent domain to eliminate transfer of an economic benefit from one private party to another. In addition, this proposition would prohibit the use of eminent domain to acquire natural resources, such as open space or public water resources. This would effectively preclude any new water storage or conveyance projects in California. Proposition 98 would end many critical programs that have successfully provided affordable housing and undermine public water projects needed to ensure the state an adequate supply of clean drinking water.

The measure would have a devastating impact on other laws and regulations intended to protect the environment. A new, independent legal analysis by Shute, Mihaly & Weinberger LLP, one of California's leading environmental law firms, (independently commissioned by the California League of Conservation Voters Education Fund) has warned that Proposition 98 could hinder the implementation of AB 32, California's landmark law to reduce greenhouse gas emissions, and many other environmental laws.

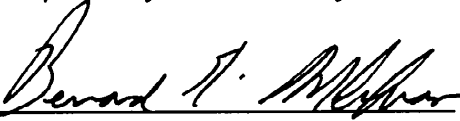
Hidden in the definitions of the measure is a provision that limits the price a private owner may charge another person to purchase, occupy, or use his or her real property. This would prohibit rent control ordinances and make local inclusionary housing ordinances unconstitutional.

A number of organizations are actively campaigning against the measure including the League of California Cities, the Association of California Water Agencies, the Western Growers Association, and other organizations concerned about the impacts on future water development.

FISCAL IMPACT:

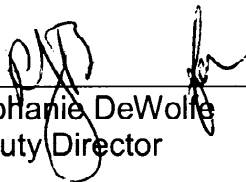
New laws restricting the use of eminent domain and redevelopment authority would have significant impacts on revitalization efforts and therefore fiscal impacts to local governments. Specific impacts cannot be quantified at this time.

Respectfully submitted by:



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