REPORT TO COUNCIL
City of Sacramento

915 I Street, Sacramento, CA 95814-2604
www. CityofSacramento.org

Staff Report
May 13, 2008

Honorable Mayor and
Members of the City Council

Title: City Positions on June 2008 State Primary Election Ballot Measures

Location/Council District: Citywide

Recommendation: This report recommends City Council adopt a resolution supporting Proposition 99 and opposing Proposition 98 on the June 3, 2008 state primary ballot as recommended by the City Law & Legislation Committee.

Contact: Michelle Heppner, Special Projects Manager, 808-1226
Cindy Cavanaugh, Assistant Director, SHRA, 440-1317

Presenters: Michelle Heppner, Special Projects Manager, 808-1226

Department: City Manager's Office

Division: Governmental Affairs

Organization No: 0310

Description/Analysis

Issue: There are two measures on the June 3, 2008 state primary ballot. These two propositions constrain local government's ability to use eminent domain, but they differ substantially in their impact on local government's ability to control land use and protect public health and safety. Attachment 1 provides a description of each ballot measure, the recommendation by the League of California Cities, and the City positions approved by the Law & Legislation Committee.

Policy Considerations: The recommended positions are consistent with 1) the Council adopted legislative principles related to retaining local control over issues impacting the City, and 2) the 2008 State Legislative Platform that supports economic & community development pertaining to eminent domain.

Environmental Considerations:

California Environmental Quality Act (CEQA):

Under the California Environmental Quality Act (CEQA) guidelines, continuing administrative activities do not constitute a project and are therefore exempt from review.

Sustainability Considerations: Not Applicable

Commission/Committee Action: On May 6, 2008, staff presented a report to the Law and Legislation Committee on the June 2008 ballot propositions. The Committee approved staff recommendation to oppose Proposition 98 and support Proposition 99.

Rationale for Recommendation: The recommended positions are consistent with the Council adopted legislative principles related to retaining local control over issues impacting the City.

Financial Considerations: See background section.

Emerging Small Business Development (ESBD): No goods or services are being purchased.

Respectfully Submitted by: _____
Michelle Heppner, Special Projects Manager

Approved by: _____
Patti Bisharat, Director of Governmental Affairs

Recommendation Approved:

for _____
Ray Kerridge
City Manager

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Attachment 1

Background

The City's Law & Legislation Committee reviews and adopts positions on statewide ballot measures in advance of each election. These positions are forwarded to the Mayor and City Council for consideration and possible action.

There are two measures on the June 3, 2008 state primary ballot. These two propositions constrain local government's ability to use eminent domain, but they differ substantially in their impact on local government's ability to control land use and protect public health and safety. Below is a description of each ballot measure, the recommendation by the League of California Cities, and the City position approved by the Law & Legislation Committee on April 15, 2008 for each proposition.

City and SHRA staff reviewed the two measures on the June 2008 state primary election ballot. In developing recommendations, staff considered whether the measures would adversely affect the City and its redevelopment agency.

The two state primary election ballot measures and the recommended positions are:

Measure	Title	League of California Cities Position	Law & Legislation Committee Recommended Position	Staff Recommended City Position
Proposition 98	Government Acquisition, Regulation of Private Property. Constitutional Amendment	Oppose	Oppose	Oppose
Proposition 99	Eminent Domain. Acquisition of Owner-Occupied Residence. Constitutional Amendment	Support	Support	Support

The following is a brief summary and analysis of primary local impacts of each of the propositions:

PROPOSITION 98 – GOVERNMENT ACQUISITION, REGULATION OF PRIVATE PROPERTY.

This measure amends the State Constitution to (1) constrain state and local governments' authority to take private property and (2) phase out rent control. Through its expansive definitions of "private use" and "takings," it will prohibit local governments from implementing numerous land use regulations and ordinances to protect the public health and safety and the environment, and transfer the costs of new public improvements in new growth areas to tax payers.

Local Impacts:

Proposition 98 would invalidate the City's Mixed Income Housing Ordinance and severely constrain historic preservation, condominium conversion and zoning ordinances regulating blight and neighborhood nuisances. The City could not exercise the power of eminent domain to acquire property for public water projects, open space or the protection of endangered species or other habitat, among other prohibitions.

Financial Impacts:

Adoption of Proposition 98 would have far-reaching negative effects on the City's financial condition. As the League of California Cities and California Redevelopment Association have stated, Proposition 98 will lead to thousands of frivolous lawsuits and paralyze approval of new homes, business, and other projects:

In the definitions section of Proposition 98 is a clause that would prohibit laws and regulations that "transfer an economic benefit to one or more private persons at the expense of the private owner." The prohibition against the "transfer of economic benefit" would make unconstitutional virtually all regulation of land use unless just compensation is paid. For example, the City's Mixed-Income Housing Ordinance requires developers in new growth areas to participate in the financing of affordable homes. Under Proposition 98, this ordinance would be unconstitutional. Without the developer's contribution, the financing gap would fall to the City, greatly reducing the feasibility of economically diverse neighborhoods in new growth areas. The same conditions would apply to nuisance regulations, such as limiting the hours of a liquor store in a residential neighborhood. The owner could claim the regulation is a transfer of economic benefit to persons in the neighborhood.

Attachment 2 provides a statement on the effects of Proposition 98.

PROPOSITION 99 – EMINENT DOMAIN. ACQUISITION OF OWNER-OCCUPIED RESIDENCE.

This constitutional amendment limits state and local governments' use of eminent domain to acquire an owner-occupied single-family home (including a condominium) for the purpose of transferring it to another private party (such as a person, business, or association). This prohibition, however, would not apply if government were acquiring the property for a public work or improvement, abating a nuisance, protecting public health and safety, preventing serious and repeated criminal activity, responding to an emergency, or remediating hazardous materials.

Local Impacts:

The City and its redevelopment agency do not usually acquire owner-occupied single family housing through eminent domain for transfer to another private party, absent a public health or safety need, as described above.

RESOLUTION NO.

Adopted by the Sacramento City Council

CITY POSITIONS ON JUNE 3, 2008 STATE ELECTION BALLOT MEASURES

BACKGROUND

A. The State of California will hold a General Election Ballot on June 3, 2008.

B. Two Propositions will be considered by California voters on June 3, 2008.

C. The City of Sacramento Law and Legislation Committee reviewed the Propositions on May 6, 2008.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

Section 1. The City Council opposes Propositions 98 on the June 3, 2008 state primary election ballot.

Section 2. The City Council supports Propositions 99 on the June 3, 2008 state primary election ballot.

Attachment 2

SUMMARY STATEMENT ON THE EFFECTS OF PROPOSITION 98

Proposition 98 expands the definition of what constitutes a "taking" under eminent domain provisions of the California Constitution, Article 1, Section 19. Section 19 mirrors the U. S. Constitution's Fifth Amendment prohibition against taking private property for public use without providing just compensation. This is commonly referred to as the "takings clause" of the Constitution. The purpose of the clause is to guarantee real property owners just compensation when their land is acquired for public use. The California courts construe the California takings clause similarly with the federal Fifth Amendment takings clause.

By its considerable new language and definitions, Proposition 98 would reverse established law on the government's ability to regulate the use of property for public health, safety, and welfare purposes, including environmental protection. As a result, 157 business, labor, agricultural, environmental, housing, tenant, and public interest organizations from many different economic sectors and political perspectives are opposed to this proposition. A few of them are listed below:

> California Chamber of Commerce, League of California Cities, AARP, League of Women Voters, Western Growers Association, Natural Resources Defense Council, CA Police Chiefs Association, CA State Association of Counties, Consumer Federation of America, Golden State Manufactured Home Owners League, National Wildlife Federation, the Trust for Public Land, State Building and Construction Trades Council, Housing California, Association of CA Water Agencies, CA Teachers Association.

Aware that the Proposition's text creates many interpretative uncertainties, many legal analysts nevertheless believe that Proposition 98 will have manifold impacts on the ability of state and local governments to ensure the safe and orderly development of their communities and protect the environment. The following attachments in this staff report describe these impacts:

- Summaries of the California Property Owners and Farmland Protection Act (Proposition 98) and the Homeowners and Private Property Protection Act (Proposition 99), California Redevelopment Association

- Legal Memo, Review of the California Property Owners and Farmland Protection Act, for Eminent Domain Reform Now, Nielsen, Merksamer, Parrinello, Mueller & Naylor, LLP

- "An Analysis of the Potential Effects on Housing Laws of the 'California Property Owners and Farmland Protection Act,'" Western Center on Law and Poverty

- Legal Memo on "Howard Jarvis Ballot Initiative,'California Property Owners and Farmland Protection Act,'" Shute, Mihaly & Weinberger LLP (concerning environmental protection)

The common threads in all these analyses are Proposition 98's new definitions of terms. A few examples follow:

New definition of "private use:"

- prohibits the government from acquiring property through eminent domain for public water projects, open space, or the protection of endangered species or other habitat

- prohibits any regulation that transfers an economic benefit from the owner to another party. The breadth of this definition potentially includes all zoning regulations including:

    - the regulation of liquor stores in residential neighborhoods

    - the City's Mixed Income Housing Ordinance

    - relocation costs for residents in condominium conversions and SRO conversions

    - historic preservation

    - re-zonings for neighborhood improvement

    - regulations protecting downtown businesses

    - regulations prohibiting the mining of land in a residential area

    - noticing of tenants about rent increases or changes to their leases

New definition of "takings."

- Expressly prohibits rent control and affordable housing ordinances, since those actions limit the price a private owner may charge another party to purchase, occupy or use his property. The consequences are particularly severe for seniors living in rent-controlled mobile home parks. It also eliminates a community's right to provide a balance of housing types affordable to different income levels through inclusionary housing ordinances. The rent control provision alone affects more than one million Californians.

- Transfers the cost of new roads, sewers, flood control improvements, parks and other public improvements in new developments from the private developer to the general tax paying public.

- Effectively precludes the use of eminent domain to revitalize blighted neighborhoods. To summarize, Proposition 98 appears to have been designed to eliminate or severely constrain what local governments do to protect the health, safety, and welfare of their citizens through their control of land use and related ordinances.

Attachment 4

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

May 1, 2007

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

RECEIVED
MAY - 3 2007
INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Re: California Property Owners and Farmland Protection Act

Dear Ms. Galvan:

By this letter, we respectfully request the Attorney General to prepare a title and summary of the chief purpose and points of the California Property Owners and Farmland Protection Act, a copy of which is attached. The undersigned are the proponents of this measure. **We also hereby withdraw Initiative No. 07-0003.** Although our previous initiative and the attached proposal both deal with eminent domain and property rights, there are substantial differences between the two.

Any correspondence regarding this initiative should be directed to Howard Jarvis Taxpayers Association, 921 Eleventh Street, Suite 1201, Sacramento, CA 95814 (916) 444-9950. The proponents' resident addresses are 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,

Doug Mosebar
President, California Farm Bureau Federation

Sincerely,

Jon Coupal
President Howard Jarvis Taxpayers Association

Sincerely,

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

SACRAMENTO OFFICE: 921 11th Street, Suite 1201, Sacramento, CA 95814 • (916) 444-9950, Fax: (916) 444-9823

LOS ANGELES OFFICE: 621 South Westmoreland Avenue, Suite 202, Los Angeles, CA 90005-3971 • (213) 384-9656, Fax: (213) 384-9870

SECTION 1. STATEMENT OF FINDINGS

(a) Our state Constitution, while granting government the power of eminent domain, also provides that the people have an inalienable right to own, possess, and protect private property. It further provides that no person may be deprived of property without due process of law, and that private property may not be taken or damaged by eminent domain except for public use and only after just compensation has been paid to the property owner.

(b) Notwithstanding these clear constitutional guarantees, the courts have not protected the people's rights from being violated by state and local governments through the exercise of their power of eminent domain.

(c) For example, the U.S. Supreme Court, in Kelo v. City of New London, held that the government may use eminent domain to take property from its owner for the purpose of transferring it to a private developer. In other cases, the courts have allowed the government to set the price an owner can charge to sell or rent his or her property, and have allowed the government to take property for the purpose of seizing the income or business assets of the property.

(d) Farmland is especially vulnerable to these types of eminent domain abuses.

SECTION 2. STATEMENT OF PURPOSE

(a) State and local governments may use eminent domain to take private property only for public uses, such as roads, parks, and public facilities.

(b) State and local governments may not use their power to take or damage property for the benefit of any private person or entity.

(c) State and local governments may not take private property by eminent domain to put it to the same use as that made by the private owner.

(d) When state or local governments use eminent domain to take or damage private property for public uses, the owner shall receive just compensation for what has been taken or damaged.

(e) Therefore, the people of the state of California hereby enact the "California Property Owners and Farmland 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 transferring the 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, or limiting the price a private owner may charge another person to purchase, occupy or use his or her real property.

(2) "Public use" means 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, 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.

(3) "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.

(4) "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.

(5) "Just compensation" means:

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

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

(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.

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

(7) "Owner" includes a lessee whose property rights are taken or damaged.

(8) "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 a taking or damaging of his or her property, 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. In addition to other legal and equitable remedies that may be available, an owner whose property is taken or damaged for private use may bring an action for an injunction, a writ of mandate, or a declaration invalidating the action of the public agency.

(d) Nothing in this section prohibits a public agency or regulated public utility from entering into an agreement with a private property owner for the voluntary sale of property not subject to eminent domain, or a stipulation regarding the 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 XIIIA. 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 a public agency from exercising its power of eminent domain to abate public nuisances or criminal activity;

(g) Nothing in this section shall be construed to prohibit or impair voluntary agreements between a property owner and a public agency to develop or rehabilitate affordable housing.

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

(i) Nothing in this section shall restrict the powers of the Governor to take or damage private property in connection with his or her 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

The provisions of this Act shall become effective on the day following the election ("effective date"); except that any statute, charter provision, ordinance, or regulation by a public agency enacted prior to January 1, 2007, that limits the price a rental property owner may charge a tenant to occupy a residential rental unit ("unit") or mobile home space ("space") may remain in effect as to such unit or space after the effective date for so long as, but only so long as, at least one of the tenants of such unit or space as of the effective date ("qualified tenant") continues to live in such unit or space as his or her principal place of residence. At such time as a unit or space no longer is used by any qualified tenant as his or her principal place of residence because, as to such unit or space, he or she has: (a) voluntarily vacated; (b) assigned, sublet, sold or transferred his or her tenancy rights either voluntarily or by court order; (c) abandoned; (d) died; or he or she has (e) been evicted pursuant to paragraph (2), (3), (4) or (5) of Section 1161 of the Code of Civil Procedure or Section 798.56 of the Civil Code as in effect on January 1, 2007; then, and in such event, the provisions of this Act shall be effective immediately as to such unit or space.

Attachment 5

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,

Christopher K. McKenzie, Proponent

Enclosure: Proposed Initiative

07-0018

May 10, 2007

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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

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Thank you for your assistance.

Sincerely,

Susan Smartt, Proponent

Enclosure: Proposed Initiative

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

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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,

Kenneth Willis, 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.