

## PROP. 98: State Superior Court Rules in Favor of California Property Owners

*Court finds No Merit to Opposition Arguments and Confirms  
That Primary Purpose of Proposition 98 is Eminent Domain Reform*

Yesterday (March 7, 2008), proponents of Proposition 98 announced a major court victory for California property owners. The Honorable Timothy Frawley of the Superior Court of California rejected a lawsuit by a coalition of politicians and developers against the State of California contending that Proposition 98's ballot title and summary is misleading. The court ruled with the State that the "chief" purpose of Prop. 98 is to reform eminent domain abuse and other related procedural and compensation reforms that protect property owners.

"The court rejected the attempt by opponents of Proposition 98 to characterize the initiative as merely a 'rent control' measure. Finding their claims to be 'without merit,' the court went on to hold that the 'chief' purpose of this measure is to constrain government's authority to take property by eminent domain. It naturally follows that much of the statement of the measure's purpose should relate to eminent domain," said Prop. 98 legal counsel Thomas W. Hiltachk.

"The judge also rejected the attempt by opponents to include a false claim that Proposition 98 would have 'far reaching' impacts on land use regulations, finding their arguments to be unpersuasive," said Hiltachk. "Interestingly, opponents of Proposition 98 did not attempt to assert the prior false claims they have made publicly regarding water storage and conveyance projects."

The court ruling confirmed that Prop. 98 does not include any so-called regulatory takings provisions that require compensation to property owners for any and all financial damages to their property. One of the many false arguments opponents of reform made against Prop. 98 was that the measure would limit land use decisions by making them too costly for public agencies to afford.

The court disagreed with this false claim and ruled that Proposition 98 "would not prohibit every environmental or land use regulation merely because the regulation involves some transfer of economic benefits." Moreover, Judge Frawley ruled, "The Court is not persuaded that this limitation necessarily would have a 'far reaching' and 'enormous impact.'" The court's conclusion is also supported by the State's ballot summary that says that Prop. 98's net fiscal effects "probably would not be significant."

"We are pleased that the court supports our view that Prop. 98 provides real and sensible private property protections without infringing on government's ability to use eminent domain for legitimate public projects that convey water or protect the environment," said Jon Coupal, president of the Howard Jarvis Taxpayers Association. "Our measure's eminent domain provisions simply limit government's ability to forcibly seize private property from those who don't want to sell to wealthy and politically connected redevelopment interests. No more, no less."

Moreover, proponents of Prop. 98 also celebrated the fact that the lawsuit never challenged the State of California for not including any language in the ballot's title and summary supporting the opposition's contention that Prop. 98 would somehow limit

government's ability to use eminent domain for water projects. This assertion has been rejected by the State Legislative Analyst's Office, water and private property experts and California's farming community.

"Clearly, opponents of private property rights did not want to test their false claim in court. Prop. 98 does not prohibit the use of eminent domain to build public water projects. Their decision not to test this political scare tactic in the court room really puts the water issue to rest," said California Farm Bureau Federation President Doug Mosebar. "Water supply and conveyance are critical issues for farmers. This ballot measure protects farmland and the water critical to California's food supply. This is why we are strong proponents of Prop. 98."

The State's ballot language for Proposition 98 and the competing Proposition 99 can be found online at the California Secretary of State's website. Prop. 98 is the only ballot measure appearing on the June ballot that protects all property from eminent domain abuse. According to the opposition sponsored Prop. 99's ballot title and summary, the State concludes that "In a limited number of cases, government would no longer have the authority to take a single-family home." The State's conclusion supports proponents of Prop. 98's longstanding contention that Prop. 99 does not do anything.

The Howard Jarvis Taxpayers Association, the California Farm Bureau Federation and the California Alliance to Protect Private Property Rights are the sponsors of Proposition 98. Prop. 98 is the only measure appearing on the June ballot that protects all private property from private to private takings, while allowing traditional uses of eminent domain for roads, schools and water projects. In addition to procedural and compensation reforms that protect property owners, the measure prohibits government from capping the sales or rental price of private property. It phases out rent regulation ordinances only after the tenant vacates the property.

The measure does not prohibit government from subsidizing low income housing or entering into willing agreements with property owners.

The measure is endorsed by NFIB, the Hispanic Chambers of Commerce and a diverse coalition of taxpayer, faith and good government organizations.

For more information on Prop. 98, visit [www.yesprop98.com](http://www.yesprop98.com).

You can find this press release online at: <http://tinyurl.com/yr9kvv>