

“Your Property Could Be in Danger!”

The following is a letter written by the California Farm Bureau Federation.

As a result of the U.S. Supreme Court’s Kelo vs. New London decision in July of 2005, government has the right to profit by seizing private property for private projects – all in the name of redevelopment.

The Institute for Justice, the organization that represented Suzette Kelo before the U.S. Supreme Court, reports that Kelo-type takings are on the rise in states that have failed to limit the awesome power of eminent domain – including California. To witness this impressive abuse of government power, you don’t have to look far to see how government tried to use its police powers to seize farmland and water rights from unwilling sellers.

Yolo County used its power of eminent domain and failed in an effort to seize the 17,000 acre Conaway Ranch and its farm water supply. Like the U.S. Supreme Court’s Kelo decision, this was an unprecedented decision by local government. Government is only supposed to use eminent domain as a last resort and then, only for a public use, such as a road, airport or other public infrastructure – but not to own and manage a ranch.

In its Kelo decision, the U.S. Supreme Court also ruled that states have the power to curb government’s power of eminent domain. But in the two years that have passed, the California Legislature has failed to provide meaningful eminent domain reform. **Farm Bureau has decided to take action by co-sponsoring the “California Property Owners and Farmland Protection Act (CPOFPA),”** a constitutional initiative that will appear on the June 2008 ballot.

In response to the Conaway Ranch case and other such cases throughout California, we feel responsible to protect the family farms and ranches that contribute to our economy and that provide jobs. Our State’s farmland and open space must be protected to grow the food that by the year 2050 will feed over 60 million people!

Since submitting our ballot measure, our coalition to protect private property rights has grown to include organizations that represent home and property owners, small business and faith-based institutions, including the National Federation of Independent Business, the Hispanic Chambers of Commerce and the California Black Chamber of Commerce, to name a few.

This support is a result of a growing concern that eminent domain abuse has become all too common. We offer a very sensible solution – eminent domain reform that prohibits government from seizing private property from unwilling sellers and giving it to another private entity, while allowing government to use eminent domain for legitimate public projects like government buildings, roads, schools and water supply projects.

This point is reaffirmed by the independent and non-profit Institute for Justice (IJ) that says, ***“While CPOFPA would stop governments and redevelopment agencies from taking property for private uses, traditional use of eminent domain for public use will not be affected.”***

Moreover, as you may know, Farm Bureau opposed a previous eminent domain ballot measure, Proposition 90 because of its far-reaching and extremely costly provisions relating to land use planning. As such, we did not include any of Prop 90’s provisions in this ballot measure that would limit legitimate land use decisions or public projects that protect the health and safety of communities and the environment.

Farm Bureau views private property rights as sacred, but it is also important to allow government to use its power of eminent domain for public projects to protect the quality of life we have come to expect as Californians.

One such example is the construction of water projects. California's family farms are highly dependent on the water that irrigates our crops and feeds the people of California and the world. That is also why Farm Bureau has been a leading voice calling for the development of new reservoirs to bolster California water supplies. New water storage would allow for flexibility in supplies for urban and environmental uses, especially during drought years.

Analysis of the California Property Owners And Farmland Protection Act

The California Property Owners and Farmland Protection Act, ("CPOFPA"), will stop eminent domain abuse – the forcible acquisition of property by local governments for private development. This constitutional amendment will appear on the June 2008 ballot.

CPOFPA very simply states: "Private property may not be taken or damaged for private use," an explicit prohibition on the use of eminent domain to take property from home and small business owners to build luxury condominiums and big box stores. This unambiguous protection is necessary because California is one of the biggest abusers of eminent domain in the country. Indeed, over the years, the Institute for Justice has found more than 1,000 abuses of the government's power of eminent domain in California; these abuses would be blocked under the language proposed in CPOFPA. Institute for Justice is currently fighting one such abuse in National City, which has authorized using eminent domain to bulldoze a community athletic center for high-end housing under a bogus blight designation.

While CPOFPA would stop governments and redevelopment agencies from taking property for private uses, traditional uses of eminent domain for *public use* will not be affected. Roads and bridges will be built. Water projects such as drainage ditches, sewers, reservoirs, dams, drinking water and irrigation have long been accepted as public uses and that will not change under CPOFPA. And eminent domain can still be used to build schools, post offices, sewers and electric lines.

In addition to barring eminent domain for private uses and allowing it for public uses, CPOFPA includes compensation and procedural reforms. Though it does have a provision regarding contracts between a private landowner and a lessee, CPOFPA does not incorporate the broad-based regulatory takings language contained in Proposition 90, which was narrowly defeated last year.

The U.S. Supreme Court's now infamous case in *Kelo v. City of New London*, permitting the government to take property from one private individual and transfer it to another for the purpose of economic development, has rightly highlighted eminent domain abuse in California, which disproportionately affects minorities, poorer communities and the less educated. **CPOFPA restores constitutional protections against eminent domain abuse, and would ensure all homes and small businesses, apartments, churches and farms remain in the hands of those that own them.**

With the passage of the California Property Owners and Farmland Protection Act, all California property owners will be afforded real and comprehensive protections. [Join us in this historic opportunity to enact lasting private property protections for all Californians by returning the donation form.](#)