

PROPOSITION 207

OFFICIAL TITLE

AN INITIATIVE MEASURE

AMENDING TITLE 12, CHAPTER 8, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 2.1; RELATING TO THE PRIVATE PROPERTY RIGHTS PROTECTION ACT.

TEXT OF PROPOSED AMENDMENT

Be it enacted by the People of the State of Arizona:

Section 1. Short title

This act may be cited as the "Private Property Rights Protection Act".

Sec. 2. Findings and declarations

A. The people of Arizona find and declare:

1. Article 2, section 17 of our State Constitution declares in no uncertain terms that private property shall not be taken for private use.
2. Our Constitution further provides that no person shall be deprived of property without due process of law.
3. Finally, our Constitution does not permit property to be taken or damaged without just compensation having first been made.
4. Notwithstanding these clear constitutional rights, the state and municipal governments of Arizona consistently encroach on the rights of private citizens to own and use their property, requiring the people of this State to seek redress in our state and federal courts which have not always adequately protected private property rights as demanded by the State and Federal Constitutions. For example:
 - (a) A recent United States Supreme Court ruling, *Kelo v. City of New London*, allowed a city to exercise its power of eminent domain to take a citizen's home for the purpose of transferring control of the land to a private commercial developer.
 - (b) The City of Mesa used eminent domain to acquire and bulldoze homes for a redevelopment project that included a hotel and water park. After the developer's financing fell through the project was abandoned and the property left vacant.
 - (c) The City of Mesa filed condemnation actions against Randy Bailey, to take his family-owned brake shop, and Patrick Dennis, to take his auto-body shop, so that local business owners could relocate and expand a hardware store and an appliance store.
 - (d) The City of Tempe instituted an eminent domain action to condemn the home of Kenneth and Mary Ann Pillow in order to transfer their property to a private developer who planned to build upscale townhomes.
 - (e) The City of Chandler filed a condemnation action against a fast food restaurant in order to replace the fast-food restaurant with upscale dining and retail uses.
 - (f) In the wake of the *Kelo* ruling, the City of Tempe recently sought to condemn property in an industrial park in order to make way for an enormous retail shopping mall.
 - (g) The City of Tempe told the owners of an Apache Boulevard bowling alley that the City intended to condemn their property and specifically instructed them not to make further improvements to the land. Heeding Tempe's advice, the owners made no further improvements and ultimately lost bowling league contracts and went out of business. The Arizona Court of Appeals refused the owners' request for just compensation.

(h) Courts have also allowed state and local governments to impose significant prohibitions and restrictions on the use of private property without compensating the owner for the economic loss of value to that property.

5. For home owners in designated slum or blighted areas, the compensation received when a primary residence is seized is not truly just as required by our state constitution.

6. Furthermore, even when property is taken for a valid public use, the judicial processes available to property owners to obtain just compensation are burdensome, costly and unfair.

B. Having made the above findings, the people of Arizona declare that all property rights are fundamental rights and that all people have inalienable rights including the right to acquire, possess, control and protect property. Therefore the citizens of the State of Arizona hereby adopt the Private Property Rights Protection Act to ensure that Arizona citizens do not lose their home or property or lose the value of their home or property without just compensation. Whenever state and local governments take or diminish the value of private property, it is the intent of this act that the owner will receive just compensation, either by negotiation or by an efficient and fair judicial process.

Sec. 3. Title 12, chapter 8, Arizona Revised Statutes, is amended by adding article 2.1, to read:

Article 2.1. PRIVATE PROPERTY RIGHTS PROTECTION ACT

12-1131. PROPERTY MAY BE TAKEN ONLY FOR PUBLIC USE CONSISTENT WITH THIS ARTICLE
EMINENT DOMAIN MAY BE EXERCISED ONLY IF THE USE OF EMINENT DOMAIN IS AUTHORIZED BY THIS STATE, WHETHER BY STATUTE OR OTHERWISE, AND FOR A PUBLIC USE AS DEFINED BY THIS ARTICLE.

12-1132. BURDEN OF PROOF

A. IN ALL EMINENT DOMAIN ACTIONS THE JUDICIARY SHALL COMPLY WITH THE STATE CONSTITUTION'S MANDATE THAT WHENEVER AN ATTEMPT IS MADE TO TAKE PRIVATE PROPERTY FOR A USE ALLEGED TO BE PUBLIC, THE QUESTION WHETHER THE CONTEMPLATED USE BE REALLY PUBLIC SHALL BE A JUDICIAL QUESTION, AND DETERMINED AS SUCH WITHOUT REGARD TO ANY LEGISLATIVE ASSERTION THAT THE USE IS PUBLIC.

B. IN ANY EMINENT DOMAIN ACTION FOR THE PURPOSE OF SLUM CLEARANCE AND REDEVELOPMENT, THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE SHALL ESTABLISH BY CLEAR AND CONVINCING EVIDENCE THAT EACH PARCEL IS NECESSARY TO ELIMINATE A DIRECT THREAT TO PUBLIC HEALTH OR SAFETY CAUSED BY THE PROPERTY IN ITS CURRENT CONDITION, INCLUDING THE REMOVAL OF STRUCTURES THAT ARE

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BEYOND REPAIR OR UNFIT FOR HUMAN HABITATION OR USE, OR TO ACQUIRE ABANDONED PROPERTY AND THAT NO REASONABLE ALTERNATIVE TO CONDEMNATION EXISTS.
12-1133. JUST COMPENSATION; SLUM CLEARANCE AND REDEVELOPMENT

IN ANY EMINENT DOMAIN ACTION FOR THE PURPOSE OF SLUM CLEARANCE AND REDEVELOPMENT, IF PRIVATE PROPERTY CONSISTING OF AN INDIVIDUAL'S PRINCIPAL RESIDENCE IS TAKEN, THE OCCUPANTS SHALL BE PROVIDED A COMPARABLE REPLACEMENT DWELLING THAT IS DECENT, SAFE, AND SANITARY AS DEFINED IN THE STATE AND FEDERAL RELOCATION LAWS, SECTION 11-961 ET SEQ. AND 42 USC 4601 ET SEQ., AND THE REGULATIONS PROMULGATED THEREUNDER. AT THE OWNER'S ELECTION, IF MONETARY COMPENSATION IS DESIRED IN LIEU OF A REPLACEMENT DWELLING, THE AMOUNT OF JUST COMPENSATION THAT IS MADE AND DETERMINED FOR THAT TAKING SHALL NOT BE LESS THAN THE SUM OF MONEY THAT WOULD BE NECESSARY TO PURCHASE A COMPARABLE REPLACEMENT DWELLING THAT IS DECENT, SAFE, AND SANITARY AS DEFINED IN THE STATE AND FEDERAL RELOCATION LAWS AND REGULATIONS.

12-1134. DIMINUTION IN VALUE; JUST COMPENSATION

A. IF THE EXISTING RIGHTS TO USE, DIVIDE, SELL OR POSSESS PRIVATE REAL PROPERTY ARE REDUCED BY THE ENACTMENT OR APPLICABILITY OF ANY LAND USE LAW ENACTED AFTER THE DATE THE PROPERTY IS TRANSFERRED TO THE OWNER AND SUCH ACTION REDUCES THE FAIR MARKET VALUE OF THE PROPERTY THE OWNER IS ENTITLED TO JUST COMPENSATION FROM THIS STATE OR THE POLITICAL SUBDIVISION OF THIS STATE THAT ENACTED THE LAND USE LAW.
B. THIS SECTION DOES NOT APPLY TO LAND USE LAWS THAT:

1. LIMIT OR PROHIBIT A USE OR DIVISION OF REAL PROPERTY FOR THE PROTECTION OF THE PUBLIC'S HEALTH AND SAFETY, INCLUDING RULES AND REGULATIONS RELATING TO FIRE AND BUILDING CODES, HEALTH AND SANITATION, TRANSPORTATION OR TRAFFIC CONTROL, SOLID OR HAZARDOUS WASTE, AND POLLUTION CONTROL;
2. LIMIT OR PROHIBIT THE USE OR DIVISION OF REAL PROPERTY COMMONLY AND HISTORICALLY RECOGNIZED AS A PUBLIC NUISANCE UNDER COMMON LAW;
3. ARE REQUIRED BY FEDERAL LAW;
4. LIMIT OR PROHIBIT THE USE OR DIVISION OF A PROPERTY FOR THE PURPOSE OF HOUSING SEX OFFENDERS, SELLING ILLEGAL DRUGS, LIQUOR CONTROL, OR PORNOGRAPHY, OBSCENITY, NUDE OR TOPLESS DANCING, AND OTHER ADULT ORIENTED BUSINESSES IF THE LAND USE LAWS ARE CONSISTENT WITH THE CONSTITUTIONS OF THIS STATE AND THE UNITED STATES;
5. ESTABLISH LOCATIONS FOR UTILITY FACILITIES;
6. DO NOT DIRECTLY REGULATE AN OWNER'S

LAND; OR

7. WERE ENACTED BEFORE THE EFFECTIVE DATE OF THIS SECTION.

C. THIS STATE OR THE POLITICAL SUBDIVISION OF THIS STATE THAT ENACTED THE LAND USE LAW HAS THE BURDEN OF DEMONSTRATING THAT THE LAND USE LAW IS EXEMPT PURSUANT TO SUBSECTION B.

D. THE OWNER SHALL NOT BE REQUIRED TO FIRST SUBMIT A LAND USE APPLICATION TO REMOVE, MODIFY, VARY OR OTHERWISE ALTER THE APPLICATION OF THE LAND USE LAW TO THE OWNER'S PROPERTY AS A PREREQUISITE TO DEMANDING OR RECEIVING JUST COMPENSATION PURSUANT TO THIS SECTION.

E. IF A LAND USE LAW CONTINUES TO APPLY TO PRIVATE REAL PROPERTY MORE THAN NINETY DAYS AFTER THE OWNER OF THE PROPERTY MAKES A WRITTEN DEMAND IN A SPECIFIC AMOUNT FOR JUST COMPENSATION TO THIS STATE OR THE POLITICAL SUBDIVISION OF THIS STATE THAT ENACTED THE LAND USE LAW, THE OWNER HAS A CAUSE OF ACTION FOR JUST COMPENSATION IN A COURT IN THE COUNTY IN WHICH THE PROPERTY IS LOCATED, UNLESS THIS STATE OR POLITICAL SUBDIVISION OF THIS STATE AND THE OWNER REACH AN AGREEMENT ON THE AMOUNT OF JUST COMPENSATION TO BE PAID, OR UNLESS THIS STATE OR POLITICAL SUBDIVISION OF THIS STATE AMENDS, REPEALS, OR ISSUES TO THE LANDOWNER A BINDING WAIVER OF ENFORCEMENT OF THE LAND USE LAW ON THE OWNER'S SPECIFIC PARCEL.

F. ANY DEMAND FOR LANDOWNER RELIEF OR ANY WAIVER THAT IS GRANTED IN LIEU OF COMPENSATION RUNS WITH THE LAND.

G. AN ACTION FOR JUST COMPENSATION BASED ON DIMINUTION IN VALUE MUST BE MADE OR FOREVER BARRED WITHIN THREE YEARS OF THE EFFECTIVE DATE OF THE LAND USE LAW, OR OF THE FIRST DATE THE REDUCTION OF THE EXISTING RIGHTS TO USE, DIVIDE, SELL OR POSSESS PROPERTY APPLIES TO THE OWNER'S PARCEL, WHICHEVER IS LATER.

H. THE REMEDY CREATED BY THIS SECTION IS IN ADDITION TO ANY OTHER REMEDY THAT IS PROVIDED BY THE LAWS AND CONSTITUTION OF THIS STATE OR THE UNITED STATES AND IS NOT INTENDED TO MODIFY OR REPLACE ANY OTHER REMEDY.

I. NOTHING IN THIS SECTION PROHIBITS THIS STATE OR ANY POLITICAL SUBDIVISION OF THIS STATE FROM REACHING AN AGREEMENT WITH A PRIVATE PROPERTY OWNER TO WAIVE A CLAIM FOR DIMINUTION IN VALUE REGARDING ANY PROPOSED ACTION BY THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE OR ACTION REQUESTED BY THE PROPERTY OWNER.

12-1135. ATTORNEY FEES AND COSTS

A. A PROPERTY OWNER IS NOT LIABLE TO THIS STATE OR ANY POLITICAL SUBDIVISION OF THIS STATE FOR ATTORNEY FEES OR COSTS IN ANY EMINENT DOMAIN ACTION OR IN ANY ACTION FOR DIMINUTION IN VALUE.

B. A PROPERTY OWNER SHALL BE AWARDED

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REASONABLE ATTORNEY FEES, COSTS AND EXPENSES IN EVERY EMINENT DOMAIN ACTION IN WHICH THE TAKING IS FOUND TO BE NOT FOR A PUBLIC USE.

C. IN ANY EMINENT DOMAIN ACTION FOR THE PURPOSE OF SLUM CLEARANCE AND REDEVELOPMENT, A PROPERTY OWNER SHALL BE AWARDED REASONABLE ATTORNEY FEES IN EVERY CASE IN WHICH THE FINAL AMOUNT OFFERED BY THE MUNICIPALITY WAS LESS THAN THE AMOUNT ASCERTAINED BY A JURY OR THE COURT IF A JURY IS WAIVED BY THE PROPERTY OWNER.

D. A PREVAILING PLAINTIFF IN AN ACTION FOR JUST COMPENSATION THAT IS BASED ON DIMINUTION IN VALUE PURSUANT TO SECTION 12-1134 MAY BE AWARDED COSTS, EXPENSES AND REASONABLE ATTORNEY FEES.

12-1136. DEFINITIONS

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "FAIR MARKET VALUE" MEANS THE MOST LIKELY PRICE ESTIMATED IN TERMS OF MONEY WHICH THE LAND WOULD BRING IF EXPOSED FOR SALE IN THE OPEN MARKET, WITH REASONABLE TIME ALLOWED IN WHICH TO FIND A PURCHASER, BUYING WITH KNOWLEDGE OF ALL THE USES AND PURPOSES TO WHICH IT IS ADAPTED AND FOR WHICH IT IS CAPABLE.

2. "JUST COMPENSATION" FOR PURPOSES OF AN ACTION FOR DIMINUTION IN VALUE MEANS THE SUM OF MONEY THAT IS EQUAL TO THE REDUCTION IN FAIR MARKET VALUE OF THE PROPERTY RESULTING FROM THE ENACTMENT OF THE LAND USE LAW AS OF THE DATE OF ENACTMENT OF THE LAND USE LAW.

3. "LAND USE LAW" MEANS ANY STATUTE, RULE, ORDINANCE, RESOLUTION OR LAW ENACTED BY THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE THAT REGULATES THE USE OR DIVISION OF LAND OR ANY INTEREST IN LAND OR

THAT REGULATES ACCEPTED FARMING OR FORESTRY PRACTICES.

4. "OWNER" MEANS THE HOLDER OF FEE TITLE TO THE SUBJECT REAL PROPERTY.

5. "PUBLIC USE":

(a) MEANS ANY OF THE FOLLOWING:

(i) THE POSSESSION, OCCUPATION, AND ENJOYMENT OF THE LAND BY THE GENERAL PUBLIC, OR BY PUBLIC AGENCIES;

(ii) THE USE OF LAND FOR THE CREATION OR FUNCTIONING OF UTILITIES;

(iii) THE ACQUISITION OF PROPERTY TO ELIMINATE A DIRECT THREAT TO PUBLIC HEALTH OR SAFETY CAUSED BY THE PROPERTY IN ITS CURRENT CONDITION, INCLUDING THE REMOVAL OF A STRUCTURE THAT IS BEYOND REPAIR OR UNFIT FOR HUMAN HABITATION OR USE; OR
(iv) THE ACQUISITION OF ABANDONED PROPERTY.

(b) DOES NOT INCLUDE THE PUBLIC BENEFITS OF ECONOMIC DEVELOPMENT, INCLUDING AN INCREASE IN TAX BASE, TAX REVENUES, EMPLOYMENT OR GENERAL ECONOMIC HEALTH.

6. "TAKEN" AND "TAKING" MEAN THE TRANSFER OF OWNERSHIP OR USE FROM A PRIVATE PROPERTY OWNER TO THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE OR TO ANY PERSON OTHER THAN THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE.

12-1137. APPLICABILITY

IF A CONFLICT BETWEEN THIS ARTICLE AND ANY OTHER LAW ARISES, THIS ARTICLE CONTROLS.

12-1138. SEVERABILITY

IF ANY PROVISION OF THIS ACT OR ITS APPLICATION TO ANY PERSON OR CIRCUMSTANCE IS HELD INVALID THAT INVALIDITY DOES NOT AFFECT OTHER PROVISIONS OR APPLICATIONS OF THE ACT THAT CAN BE GIVEN EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION, AND TO THIS END THE PROVISIONS OF THIS ACT ARE SEVERABLE.

ANALYSIS BY LEGISLATIVE COUNCIL

Eminent domain is the power of the government to take private property for public use. Proposition 207 sets forth the rights of a property owner when the state or a local government exercises the power of eminent domain. (These rights are in addition to the current statutory and constitutional rights.)

Proposition 207 would limit the use of eminent domain to situations where eminent domain is authorized by the state and the property taken is put to a public use. The proposition defines "public use" to include:

1. The use of land by the general public or by public agencies.
2. The use of land for utilities.
3. The acquisition of property to eliminate a direct threat to the public health or safety caused by the current condition of the property.
4. The acquisition of abandoned property.

Proposition 207 excludes from the definition of public use the public benefits of economic development.

The Arizona constitution prohibits a government from taking private property, unless the government provides just compensation to the property owner. Proposition 207 provides that as just compensation when a person's primary residence is taken by the government, the person must be provided a comparable replacement dwelling that is decent, safe and sanitary. The property owner may choose to receive money compensation instead of the replacement dwelling.

Proposition 207 also provides that a property owner is entitled to just compensation if the value of a person's property is reduced by the enactment of a land use law. A land use law is defined as a law that regulates the use or division of land, such as municipal zoning laws, or regulates accepted farming or forestry practices. The proposition sets out seven types of land use laws that are exempt from the compensation requirement.

If a property owner were successful in an eminent domain law suit, Proposition 207 would require the government to pay the land owner's attorney fees and costs. If a property owner were successful in a law suit for reduction in the property's value, the court could award attorney fees and costs.

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FISCAL IMPACT STATEMENT

State law requires the Joint Legislative Budget Committee (JLBC) Staff to prepare a summary of the fiscal impact of certain ballot measures. Proposition 207 may increase the cost to state and local government to acquire private property for public use in some circumstances. The proposition also requires a property owner to be compensated, including reasonable attorney fees, if the value of a person's property is reduced by the enactment of a land use law.

The proposition also prohibits the use of eminent domain for economic development. If state and local governments reduce their use of eminent domain as a result, their compensation costs may decline.

The overall fiscal impact will be affected by how the proposition affects the level of economic development in a community.

ARGUMENTS "FOR" PROPOSITION 207

Last year, the U.S. Supreme Court sanctioned eminent domain abuse with its controversial decision, *Kelo v. New London*, which said that governments can take private property for third-party private development. Since then, private property rights have literally been bulldozed across the country, with reports of eminent domain abuse skyrocketing since last year.

In November, Arizonans will have the chance to vote their property rights back into existence with Proposition 207. This proposition, the Arizona HomeOwners Protection Effort (HOPE), will return airtight property rights protection to our state.

Proposition 207 addresses government property takings, whether by eminent domain or by uncompensated regulation. Right now in Arizona, your property value can be erased with the stroke of a bureaucrat's pen—and under our current law, no compensation is required. Local governments can also take your property through eminent domain, and your only recourse would be to battle it out in the courts. We need a law on the books to protect Arizonans from these kinds of abuses. That's why we need Proposition 207.

Proposition 207 will prevent Arizonans' private property from being taken unjustly (for private development and higher tax revenue) and it will require that property owners be justly compensated if there is a taking. It's that simple. It's the right thing to do.

No one's home is safe from government seizure while these takings—both from eminent domain and uncompensated regulation—are allowed to continue. Thousands of people across the state have already joined together to end unjust government takings in Arizona—the HOPE committee submitted nearly 225,000 signatures to qualify the measure for the ballot.

If you value your property rights, join us. Vote yes on Proposition 207 in November.

Carol Springer, Chairman, Arizona HOPE, Prescott,
Paid for by "Arizona Home Owners Protection Effort"

The Arizona Farm Bureau supports proposition 207.

This proposition amends the Arizona constitution to reinforce that definitions of "public use" in the eminent domain process are truly the province of the judicial system and not cities, counties or state government. It also sets up more clarity and process so that slum clearance is truly warranted, rather than an effort masquerading as an attempt to "upgrade" private property from one private hand to another, rather than legitimate and limited public needs.

This proposition also addresses the area of "takings", i.e. reduction in fair market value due to the enactment of any land use law.

With the uncertainty created by the U.S. Supreme Court in the *Kelo* decision, which forces property owners to look over their shoulders and be wary of government, this proposition dampens the enthusiasm of local governments to use eminent domain for anything they wish.

Our institutions (U.S. and Arizona Constitutions, and the Bill of Rights) were designed to protect private property. The *Kelo* decision undermined those institutions. We should not fear our government as private property owners. This proposition strengthens our Constitution on property rights.

Vote **YES** on Proposition 207

Kevin G. Rogers, President, Arizona Farm
Bureau, Mesa
Paid for by "Arizona Farm Bureau"

James W. Klinker, Chief Administrative Officer,
Arizona Farm Bureau, Mesa

I proudly served as a U.S. Air Force policeman, a City of Flagstaff Deputy City Attorney (prosecutor), and a Deputy Maricopa County Attorney (felony prosecutor). In those government positions I was taught to seek and pursue justice—not just arrests or convictions. I appreciated that abuse of governmental power was an evil that must be avoided.

In 2002, I discovered that we have many government officials who never learned this lesson. I witnessed the outrageous arrogance, and abuse of power, by officials in my hometown. In the case of City of Tempe vs. Pillow, the city "redevelopment thugs" (i.e., our mayor, city counsel members, redevelopment staff, and city attorneys) abused their eminent domain power by trying to take the home of an elderly couple. The city had made a deal with a developer to declare the area a redevelopment zone, and literally bullied most of the area property owners into selling for a mere fraction of the fair value. The city made the developers a sweat heart deal just to increase

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tax revenues and build town houses. As a trial lawyer, I was proud to represent Mr. and Mrs. Pillow in their successful fight to save their home.

Article 2, Section 17, of the Arizona Constitution and the Bailey Brake case are not enough. When the city “redevelopment thugs” come calling, property owners need more legal weapons to “slay the evil dragon of government abuse.” This Proposition gives you some of those weapons. I strongly urge you to vote yes.

Timothy L. Moulton, Attorney at Law, Tempe

On June 23, 2005 the U.S. Supreme Court dealt a cruel blow to property owners by allowing the City of New London, Connecticut to take peoples’ homes along the waterfront and give them to a private developer in order for the City to realize higher tax revenues. This is the Kelo case and it sparked a nationwide movement to defend the homes and businesses of property owners.

But in Arizona, private property protections failed when Governor Napolitano vetoed House Bill 2675, which would have blocked eminent domain abuses. Some property rights protections passed the State Senate, but stalled in the House. Thankfully the Arizona Home Owners Protection Effort (HOPE) is taking property rights protections directly to the voters.

Proposition 207 addresses government takings, whether by eminent domain or regulation. It prevents the government from taking private property for third-party private development merely to increase tax revenue, and ensures just compensation for property owners in public use takings and when governmental regulation devalues property.

Under current law, and especially after Kelo, no home or business is safe from government seizure. The courts can’t be trusted to protect us and Arizonans need to be protected by the law. Proposition 207 will give Arizonans the property rights protections we deserve.

On November 7, 2006 we have a choice. We can continue to allow government to give our homes and business to others for their gain, or we can secure once again our rights to the fruits of our labors and secure for our children those same rights for generations to come.

I support Arizona HOPE’s initiative, I’m glad to see Proposition 207 on the ballot. Join us in ending property rights abuses in Arizona—vote YES on Proposition 207 this November.

Senator Chuck Gray, Mesa

Property Rights, Stewardship and Freedom cannot be separated. Arizona’s cattle producing families understand property rights – it is the foundation by which we produce food for our tables, it is the foundation for how we raise our families, it is the foundation by which we apply conservation so that our children may continue to steward and shepherd the land for the benefits of future generations.

Property rights means more than the freedom to use one’s property in a legal fashion – it means bountiful rewards, it means passing it on from one generation to the next and it provides the basis for making proper decisions today because of the assurance we will have the ability to reap its rewards tomorrow. Whether it is our home, the open spaces where we raise our cattle or our livestock – it is all property worth protecting.

Individual rights are inseparable from property rights. We live in the most prosperous nation on the planet because the land contains abundant natural resources and the people have been free to produce from these lands to create wealth and bountiful supplies.

The principle that an individual be free to reap the fruits of his labor, or suffer loss from imprudent action, is fundamental, and provides economic incentive for a property owner to use his property wisely. But to use property wisely, the owner must be confident that the government, or judicial system, will protect his rights.

The protection of property rights is fundamental to the preservation of civil liberties.

Please join us in voting YES on Proposition 207.

Bill Brake, ACGA President, Arizona

Scott Shill, ACFA President, Arizona

Cattlemen’s Association, Scottsdale

Cattlemen’s Association, Welton

Paid for by “Arizona Cattlemen’s Association”

Several years ago, my business partners and I invested in property in Pima County that was zoned for retail business use. The County Board of Supervisors, however, quickly down-zoned the land after we purchased it---and now it’s worth a fraction of what we paid.

We spent a lot of time and resources seeking justice, and the courts just ruled against us for the fourth time. We are tired, frustrated, and, simply stuck. A cabal of local bureaucrats have eliminated our property rights.

This is why I support Proposition 207, the Arizona HomeOwners Protection Effort (HOPE). Kelo paved the way for bulldozed property rights nationwide, and Arizona is no exception. Under current law, the government can seize private property for private purposes with eminent domain. It is also not required to compensate property owners when regulations devalue their land. Arizona needs real property rights protection.

Proposition 207 will do just that. It prohibits the government from taking private property for third-party private development and it ensures just compensation for property owners when government regulations diminish property value.

Those who say we can rely on the courts to protect our property rights are dead wrong. The courts are often the problem, not the solution. My business partners and I were fortunate enough to have had the resources to try to fight our case. Most people don’t, however—and they will lose every time. Citizens shouldn’t have to waste

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time and money fighting for their most basic right—our property rights must be protected by the law.

Proposition 207 will give Arizona the airtight property rights protection laws it needs to stop these abuses—vote YES in November.

Emmet McLoughlin, Tucson

As a homeowner, parent, neighborhood leader, and school volunteer, I SUPPORT this proposition. Owning our homes and small businesses is part of the American Dream. We cannot allow cities and states to take them away from us just because they want to build a more profitable shopping center. We cannot stand silent. We must protect our country and its individual freedoms. In the recent U.S. Supreme Court case of Kelo vs. New London, Ms. Kelo's small private home was taken away from her in order to replace it with a development including a resort hotel and conference center. This proposition will exclude from the definition of public use, the public benefits of economic development. We must stop this insanity.

Please vote YES.

Debbie Lesko, Glendale Neighborhood Leader and Candidate for Peoria School Board, Glendale

Arizona Needs eminent domain reform. The Governor vetoed the eminent domain reforms adopted by the Legislature this year, but you, the voter, now have the opportunity to clearly define and strictly limit this despotic power. Together, we will ensure that government can't take away our homes and businesses for the benefit of private developers.

Many remember Randy Bailey's fight to protect his family-owned brake shop from Mesa's attempt to bulldoze it so a local developer could relocate and expand his ACE Hardware store. Our state Court of Appeals blocked this naked transfer of land to private interests, but Arizona's Supreme Court has said similar condemnations may be permissible if cities first declare the area "blighted." Frighteningly, our state courts routinely rubber stamp municipal declarations of "blight," even bogus blight, and then allow cities to take and demolish safe and clean properties if the property is located in a so-called "redevelopment area." That means no matter how well you maintain your home or business it is not safe from local governments' efforts to seize property for private commercial development.

The League of Arizona Cities and Towns has already asked the Arizona Supreme Court to reject the Bailey case and to adopt the "anything goes" standard announced by the U.S. Supreme Court in its infamous Kelo v. City of New London decision, which said that the U.S. Constitution does not prohibit taking private property for private use. Rather than wait and see if the Arizona Supreme Court abandons its responsibility to protect our homes by applying Kelo in Arizona, you can prevent future abuse of eminent domain by voting for Proposition 207, the Private Property Rights Protection Act.

Tim Keller, Executive Director, Institute for
Justice Arizona Chapter, Chandler
Paid for by "Institute for Justice"

William H. Mellor, President and General
Counsel, Institute for Justice, Falls Church

Regulatory Justice

After struggling with cancer and spousal abuse, Rita Ulsheimer bought a humble home in Apache Junction and planned to retire there. She particularly liked the awning next to the house that would cover her car from the scorching Arizona sun. But city inspectors demanded she tear down the awning because it violated the city code; on top of that they wanted her to pay to tear it down.

If Ms. Ulsheimer had built her awning knowing it violated the city code, it should have been removed. But she was innocent; the awning was there when she bought her home. Voting Yes for the Private Property Rights Protection Act will empower people like Rita Ulsheimer to get compensation for the reduction in their property's value caused by unnecessary regulations.

The Act will not restrict cities' ability to protect the health and safety of the people. If a city shows that a zoning rule relates to pollution, building codes, fire danger, or a long list of other concerns, the city does not have to pay property owners for the cost of the regulation. Instead, the Act puts citizens on equal footing with the city when it comes to enforcement of zoning rules that have nothing to do with health or safety.

As long as cities pass unnecessary zoning regulations, the only fair solution is a regulatory takings law that balances the zoning needs of the community with the rights of the people. A Yes vote on Prop. 207 means a balanced approach to property rights and a step toward fairness in zoning decisions.

For more information about eminent domain and regulatory takings visit www.hopeforarizona.com.

Jim Manley, Tempe
Jennifer Perkins, Attorney-at-Law, Mesa
Paid for by "Jim Manly"

Tim Keller, Attorney-at-Law, Chandler

This November, there will be a measure on the ballot that will protect one of our most essential freedoms: private property rights. Proposition 207, the Arizona Home Owners Protection Effort (HOPE), will protect Arizonans from the rampant eminent domain abuse sanctioned by the Kelo decision.

Last June, the U.S. Supreme Court ruled that governments could take property using eminent domain for purposes other than "public use"—namely, economic development that boosts their tax rolls. Kelo illustrated that no property owner's rights are safe from bureaucratic bulldozing, and it has sparked a national movement to

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save private property rights.

Thankfully, we have a chance to stop these injustices in Arizona. It is imperative that Arizonans take advantage of the chance to define our state government's boundaries this November.

Proposition 207 will do just that, stopping abusive government takings once and for all. It clearly defines acceptable uses of eminent domain for true public use, and it gives Arizonans the real property rights protection they need. Proposition 207 will stop the government from taking private property for third-party private development simply to increase tax revenue, and it will ensure that property owners are justly compensated when governmental regulations devalue their property, or when their property is needed for legitimate public use.

It's simple. It's common sense. It's the sound property rights protection Arizona needs.

City planning has been happening for hundreds of years, and it will continue without abuses of governmental power. Private property rights are embedded in the American Dream; they are one of our most basic freedoms—and Proposition 207 will protect private property rights in Arizona.

Please vote YES on Proposition 207.

Lori Klein, Anthem

Last June, the U.S. Supreme Court sanctioned eminent domain abuse with the controversial *Kelo v. New London* decision, in which they ruled that the government could take private property for private development.

However, the effects of the *Kelo* decision reached much farther than New London, Connecticut. Across the country, Americans' property rights have been trampled by big money and special interests. *Kelo* sparked a nationwide reaction from citizens who joined together to defend their property rights. Now, in November, Arizonans can vote to restore our property rights with Proposition 207.

Proposition 207 addresses government takings, whether by eminent domain or by regulatory takings. It prevents the government from seizing private property for third-party private development and it ensures that property owners are justly compensated when the government takes private property for true public purpose and when governmental regulation diminishes their property value.

It's simple: vote yes on Proposition 207 and reverse the injustice created by *Kelo*. Proposition 207 will give Arizonans the property rights we deserve.

Kelo proved that we can't trust the courts to protect our property rights. Across the country, courts have ruled in favor of bureaucrats and tax dollars instead of property owners. Furthermore, citizens can't afford to spend the time, emotion, and resources to fight in court every time the government abuses its power with eminent domain. We need our property rights protected by the law.

Proposition 207 will do exactly that—and my vote in November will be a resounding YES. Please join me, and restore property rights to Arizonans.

Joyce E. Downey, Scottsdale

Paid for by "Arizona Home Owners Protection Effort"

This summer, the Arizona HomeOwners Protection Effort (HOPE) submitted nearly 225,000 signatures from people across the state who supported their property rights protection initiative. Now—luckily for Arizona property owners—that initiative, now Proposition 207, is headed for the November ballot. To put an end to the eminent domain abuse that strips Arizonans of their most basic freedom, vote YES on Proposition 207 this fall.

Proposition 207 will reverse the takings abuse that became acceptable after the *Kelo* decision, giving Arizonans airtight property rights protection. Currently, bureaucrats can seize your home or business to hand over to a private developer simply to increase tax revenue. In the name of the almighty dollar, unfair government takings have become commonplace because of *Kelo*.

But in November, Arizonans can put their foot down to end this injustice in their state.

Proposition 207 eliminates unjust government takings, whether by eminent domain or regulation. Not only does it stop bureaucrats from taking private property for private development, but it also requires that property owners are justly compensated in valid takings for public good and when governmental regulation devalues their property.

It's simple: Proposition 207 restores private property rights to Arizonans, protecting them from powerful special interests and politicians who abuse their power. No one should argue with that.

I fully support Proposition 207 and in November, I'll be voting YES for Arizona property rights. Please join me.

John Norton, Paradise Valley

Paid for by "Arizona Home Owners Protection Effort"

A property rights revolution has been sweeping the country every since last June, when the U.S. Supreme Court ruled that the government could take private property for third-party private development in the *Kelo v. New London* decision. In response, citizens have joined together to enact sound property rights protection in their states.

In November, Arizonans will have a chance to stop the government takings abuse in our own state with Proposition 207.

Proposition 207 stops the government from seizing private property for private development just to boost tax revenue, and it also requires that property owners be justly compensated in justifiable eminent domain takings

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PROPOSITION 207

and when governmental regulation devalues their property.

In short, Proposition 207 protects Arizonans from unjust government takings, and it gives us the property rights protection that we have needed since Kelo.

No one's property is safe while takings abuse is allowed to continue across the country. Kelo made it painfully clear that we can't trust the courts to give us the property rights protection that we're entitled to. Property rights are one of our most essential freedoms—they're embedded in the American Dream. Proposition 207 will protect that, and prevent governmental takings abuse in Arizona.

I wholeheartedly support Proposition 207, and in November I'll be voting YES for it. Please join me, and help protect Arizonans' property rights.

Becky Fenger, Phoenix

Paid for by "Arizona Home Owners Protection Effort"

"The specter of condemnation hangs over all property. Nothing is to prevent the State from replacing any Motel 6 with a Ritz-Carlton, any home with a shopping mall, or any farm with a factory."

So wrote Arizona's own Justice Sandra Day O'Connor in her strong dissent in the controversial Kelo v. New London case. Many believe that case calls into question constitutionally protected property rights all across America. One positive outcome of that controversial case was the recognition of a clear path that Congress and/or the states can follow to protect their homeowners and small businesses.

Proposition 207 is Arizona's opportunity to remove any ambiguity and loopholes in Arizona law that would allow for unfair and unjust private property takings through the otherwise legitimate power of eminent domain.

The Arizona Chamber of Commerce and Industry urges Arizona voters to vote YES on Proposition 207 to protect homes and businesses from egregious over-reaching by government.

Eminent domain is the awesome power of the government to take private property for public use with just compensation for the targeted property owner. Our Founding Fathers enshrined this principle in our Bill of Rights with the Fifth Amendment to the U.S. Constitution.

If passed, Proposition 207 would limit the use of eminent domain to situations where it fits strict pro-property-owner restrictions found in the proposition. They include banning efforts to replace one property owner with another for no other reason than economic development to increase the tax base. Proposition 207 also protects private property owners from the loss of property value from a downgrading of a property by government.

For these and other sound public policy reasons, the Arizona Chamber of Commerce and Industry recommends Arizonans vote YES on Proposition 207, the Private Property Protection Act.

Steve Twist, Chairman of Board of Directors,
Arizona Chamber of Commerce and Industry,
Scottsdale

James J. Apperson, President & CEO, Arizona
Chamber of Commerce and Industry,
Scottsdale

Paid for by "Arizona Chamber of Commerce and Industry"

One of the most important liberties of the American republic is private property rights. In response to the recent Kelo decision by the U.S. Supreme Court, many states and localities have taken legislative action to further protect property owners from big government and big business attempts to condemn private property for use in private development activities.

Five years ago the City of Mesa tried to 'take' Randy Bailey's family-owned brake shop because they wanted to help a developer relocate and expand his ACE Hardware store. Luckily the Arizona Court of Appeals put a stop to this theft. More recently the City of Tempe tried to do the same thing when it attempted to condemn 13 businesses so it could make way for a massive new retail project. Not to be outdone, the City of Scottsdale, through its regulatory authority, in 1993 declared its downtown a slum so it could make way for condemnation. That was the same year Scottsdale won the U.S. Conference of Mayors "Most Livable Cities" award.

Proposition 207 is Arizona's answer to this growing problem. Legislative action was blocked by powerful local government interests who want to benefit from the ability to force people to sell their property against their will. Proposition 207 limits and tightens the government's ability to effectively 'take' your property by placing unfair and unreasonable regulations on it.

It is important for Arizona to compete effectively in attracting and retaining businesses. One of the ways to do that is to protect the investments we make in our homes and businesses from unwarranted seizure and restriction.

The Arizona Free Enterprise Club urges a Yes vote on Proposition 207.

Dean Riesen, Chairman, Arizona Free
Enterprise Club, Phoenix

Steve Voeller, President, Arizona Free
Enterprise Club, Cave Creek

Paid for by "Arizona Free Enterprise Club"

ARGUMENTS "AGAINST" PROPOSITION 207

AGAINST

This Initiative has been funded almost entirely by the Illinois-based group Americans for Limited Government. It should be called the **Anti-Neighborhood Preservation and Conservation Act** rather than the Private Property Rights Protection Act.

Section 12-1135. Diminution In Value: Just compensation of this Initiative reads almost exactly as provisions of SCR 1019 and HCR 2031 which were defeated this past session of your State Legislature. This section permits property owners to claim compensation for alleged reduction in fair market value from enactment or enforcement of any land use law passed after acquisition. It has **NOTHING** to do with Eminent Domain and could require municipalities to compensate property owners for every zoning or land use decision they make.

Examples of actions that could trigger lawsuits and payments:

- Change from commercial residential or industrial use, or changes in density
- Approval or disapproval of building height limits
- Approval or disapproval of liquor licenses
- Approval or disapproval of historic overlay zoning
- Approval or disapproval of neighborhood – developed special planning districts
- Enforcement or enactment of neighborhood preservation codes
- Regulation of business hours or building design standards

This initiative will cost taxpayers millions, encourage speculative land deals and frivolous litigation.

If municipalities are discouraged from making land use decisions for fear of creating a right of compensation, neighborhoods will suffer.

We have been working for 15 years on issues related to neighborhood preservation. This Initiative will seriously impair our future efforts. Don't let outsiders hurt our neighborhoods. Eminent Domain can be handled next year in the Legislature as a SEPARATE issue.

Vote NO on the Private Property Rights Protection Act.

B. Paul Barnes, President, Neighborhood
Coalition of Greater Phoenix, Phoenix

Patty Prince, V.P., Neighborhood Coalition of
Greater Phoenix, Phoenix

Paid for by "B. Paul Barnes"

Oppose Proposition 207

Proposition 207 is bad for Arizona and bad for America's defense.

This scheme is being **promoted by wealthy out-of-state interests**. They hired high-priced lobbyists who tried every thing possible to force the legislature to foist this on Arizona. After months and months of trying to fix one problem after another with this proposition, the legislature realized that this was **unworkable and unfixable** and ultimately voted it down.

- This proposition would **halt local governments' efforts to protect military bases** in Arizona.
- It would strangle the largest employer in Arizona, the Department of Defense.
- It would put a boot on the throat of the biggest factor of Arizona's economy.
- The fuzzy language of this proposition will make it very **difficult or impossible** to build necessary facilities such as water and wastewater plants; protect historic districts; **regulate how close bars are to schools; improve neighborhood standards**; or promote economic development.

- If this is passed by a vote of the people, **it can never be changed by the legislature**.

Tell out-of-state interests to take their bad ideas home. **Vote NO on Proposition 207.**

John Keegan, Luke West Valley Council, Co-Chair, Mayor of Peoria, Peoria

The Arizona League of Conservation Voters urges Arizonans who care about conserving our natural heritage to vote no on the Arizona Home Owners Protection Effort. Despite its noble-sounding title, the initiative would jeopardize Arizona's natural environment by depriving state and local governments the ability to pass reasonable land use and conservation requirements.

Part of the measure calls for limiting use of eminent domain for redevelopment purposes, and the League takes no position on that. Our concerns are with other provisions that would deprive Arizona of the tools we need to properly balance conservation and growth. The initiative would subject communities to potential litigation every time they enacted new land use regulations, regardless of their good faith efforts to balance public and private land use interests. Any time property owners claimed a new conservation regulation impacted, even slightly, the maximum value of their property, they could sue.

Arizona's conservation policy shouldn't be driven by threats of litigation.

How would this measure hurt? For one example, in much of Arizona groundwater pumping is drying up rivers and aquifers. When voluntary efforts fail, regulation is necessary. A community's right to protect its water shouldn't be held hostage to a developer's lawsuit. Local governments can't work to conserve our natural resources if they're spending all their time fighting developer lawsuits. In Oregon, a similar measure has prompted thousands of suits and paralyzed state government.

Property owners who face unreasonable "regulatory takings" already have remedies under the state and federal constitutions. Tell the out-of-state "think tanks" that dreamed up this lousy initiative that Arizona law works

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PROPOSITION 207

just fine as it is. Vote NO.

Anne Graham Bergin, President, Arizona
League of Conservation Voters, Tucson

Jessica Catlin, Secretary, Arizona League of
Conservation Voters, Phoenix

Paid for by "Arizona League of Conservation Voters"

WESTMARC strongly urges voters to **VOTE NO** on **Proposition 207!**

WESTMARC is the regional coalition of business, government, and education that advocates for good public policy. As a partnership between business and government, it is paramount that we thoroughly consider public policy issues and work collaboratively toward public policy that is good for our region and our state.

WESTMARC has thoroughly considered Proposition 207 and believes it is bad for Arizona!

We believe:

- citizens want and deserve strict limits on government power.
- government condemnation should be limited only to those instances that clearly justify a public purpose.
- in just compensation for property owners when property transferred to government for the public good.

We also believe that Proposition 207 goes too far!

If passed, Proposition 207:

- **will severely impact Luke AFB**, negating the land use protections that we have worked so hard to establish. Without these protections, the future of Luke AFB is in question and the valley will suffer future economic harm.

- **will eliminate cities' ability to address slum and blight in neighborhoods.**
- **will result in expensive litigation, with all costs being born by taxpayers.**
- **cannot be changed by the legislature, then only to make it better, whatever "better is".**

WESTMARC doesn't believe any good for Arizona can come from this fuzzy language, which is sponsored by wealthy out-of-state interests who have little or no interest in Arizona!

Vote NO on Proposition 207, and join these and other members of WESTMARC:

Jay Ellingson, SunCor-Palm Valley

Tyron Ivy, Prism Technology Solutions

Goodyear Mayor James Cavanaugh

Glendale Mayor Elaine Scruggs

Doug Kelsey, Sun City HOA

Chuck Ullman, Sun City PORA

Mike Woodard, Blue Cross/Blue Shield

James Resendez, West Valley Hospital

Arlene Kulzer, Arrowhead Community Bank

Herman Orcutt, Orcutt/Winslow Partnership

Hal DeKeyser, Chairman, WESTMARC, Peoria

Jack W. Lunsford, President & CEO,
WESTMARC, Phoenix

Paid for by "WESTMARC"

On behalf of nearly 600 businesses, organizations and municipalities who are members of Valley Partnership, many of whom own private property, and employ tens of thousands of Arizonans, we encourage you to vote NO on Private Property Protection Act.

Since our forefathers signed the Constitution, private property owners have been protected from government unlawfully seizing their property without public purpose and without just compensation. Current Arizona law is recognized nationally as ensuring that private landowners have the utmost protection from government abusing their limited power to take lands. In Arizona, most governments use the power to acquire private property responsibly and constitutionally.

The Act is an overreaction to a Supreme Court decision in a Connecticut case. Existing Arizona laws severely limit government ability to take property, so the case probably will have little or no impact in Arizona. However, if the Act is passed, a system of cumbersome procedures and expensive and time consuming lawsuits will prevent governments from efficiently building freeways, roads, firehouses, parks, trails and other public amenities and infrastructure. Community projects planned to improve the quality of life would be delayed or terminated. The Act will spawn numerous unnecessary lawsuits and public money would be used to pay lawyers to fight them.

Arizona governments have historically acted properly when exercising the limited power to acquire private property for public purposes. The state, counties, cities and towns operate under a current system of laws that protects the rights of the private property owner while allowing the government to use their resources to create better communities. There is no reason to make changes to the system that would foster lawsuits and require governments to spend more public money.

Please vote NO on the Private Property Protection Act.

Charley Freericks, Chairman of the Board,
Scottsdale

Richard R. Hubbard, President & CEO, Phoenix

Paid for by "Valley Partnership"

WE STRONGLY URGE THE VOTERS OF ARIZONA TO VOTE "NO" ON PROPOSITION 207

The military bases in this State are key to a strong national defense and contribute to a strong and stable economy.

The City of Yuma and Yuma County are home to three military facilities:

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- The **Marine Corps Air Station**, which is one of the Marine Corps' premier aviation training bases.
- The **Yuma Army Proving Ground**, which has the size to allow Army weapon systems to fully exercise their capabilities without endangering the public.
- The **Barry M. Goldwater Range**, which is the prime air space testing area for Luke Air Force Base and the Marine Corps Air Station.
- The Yuma community fully supports the men and women stationed at these facilities who serve to protect our country. However, Proposition 207 will jeopardize the mission viability of these military facilities.

A "NO VOTE ON Proposition 207 will:

- Allow adjustments to land use plans and existing zoning restrictions to ensure the viability of our bases and to protect our resources;
- Ensure development surrounding our military facilities will be compatible with military operations;
- Ensure existing land uses that are compatible military will remain compatible;
- Ensure a continued healthy economy, and
- Avoid future threats of base closures due to Base Realignment and Closure (BRAC).

PLEASE VOTE "NO" ON PROPOSITION 207.

Lawrence K. Nelson, Yuma

Ross J. Hieb, Yuma

Ema Lea Shoop, Yuma

Paid for by "Larry Nelson"

The Neighborhood Coalition of Greater Tucson opposes this initiative because it has stealth provisions that would devastate the ability of local government to adopt regulations that protect our neighborhoods, the environment, and the historic and cultural values of our communities. Developers, billboard companies, and other special interests with deep enough pockets could challenge virtually any zoning or sign regulation that does not suit their needs with the claim that property rights never previously recognized would now be affected. The real motivation, however, is to run roughshod over local community desires for the sake of maximum profits and financial windfalls.

Please vote NO on the (so-called) Private Property Rights Protection Act.
Neighborhood Coalition of Greater Tucson
PO Box 43097
Tucson AZ 85733

Sharon Chadwick, Co-Chair, Tucson

Mark Mayer, Co-Treasurer, Tucson

Paid for by "Neighborhood Coalition of Greater Tucson"

Proposition 207 limits local and state governments' ability to protect our environment and the quality of life for which our state and communities are justly famous.

For example, under Proposition 207, local and state governments would be severely limited in their ability to enact ordinances or regulations to preserve riparian areas and hillsides, or create buffers from development to protect wildlife habitat.

As an Arizona-based nonprofit, the Sonoran Institute promotes community decisions that respect the land and people of the West. We believe this is achieved through civil dialogue, broad-based partnerships, and cooperation and not by a small group of primarily out-of-state special interests trying to impose their values on all Arizonans like Proposition 207 does.

Proposition 207 will force taxpayers to pay certain developers to further protect our land, water, and scenic vistas—environmental values that are prized by all Arizonans. Such payments would be made even if a developer stands to benefit financially from their development project.

Local families and business people who pay local taxes would feel the brunt of this radical, new "pay or waive" system. In the face of the resulting budget stress, elected officials would have to cut services or allow new development to degrade quality of life and the environment, and deplete government's capacity to deliver other public services.

Arizonans have been united in opposing a measure similar to this in the past. Let's work together to defeat it again. Please oppose Proposition 207.

Luther Propst, Executive Director, Sonoran
Institute, Tucson

Denny A. Minano, Board Member, Sonoran
Institute, Tucson

Paid for by "Sonoran Institute"

Please vote no on Proposition 207.

Proposition 207 is being promoted by an out-of-state organization that will not have to live with the consequences of this costly and unwise initiative. In the last few weeks before the signatures were due, this Illinois-based organization pumped nearly a million dollars into the campaign to buy the signatures to get on the ballot.

If adopted, this measure would either cost taxpayers plenty, draining funds from important public services, or, more likely result in no enforcement of laws which protect property values and communities. The current zoning in our communities would be effectively frozen, preventing government from responding to future concerns.

Examples of actions that would be limited by this proposition are:

- Approval of wash or hillside protection ordinances.
- Application of historic overlay zoning.

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- Enactment of neighborhood preservation measures.
- Adoption of wildlife habitat preservation measures.
- Approval of buffer areas near preserves or important wildlife habitat areas.

This measure opens the door for anyone with the speculative hope—or a lawyer—to make an argument that there has been some reduction in property value and to file a claim for compensation with their local government. That means we, the taxpayers, have to foot the bill for the private demands of land speculators. The Arizona Legislature has attempted to win passage of takings measures in the past; legislators have rejected most of these measures and the Arizona voters overwhelmingly rejected the one that was referred to the ballot by citizens who opposed it. There is no reason to take a different approach now, please reject this ill-conceived and extreme measure. Please vote no on Proposition 207.

Ken Langton, Chair, Sierra Club – Grand
Canyon Chapter, Tucson

Don Steuter, Conservation Chair, Sierra Club –
Grand Canyon Chapter, Phoenix

Paid for by "Sierra Club Grand Canyon Chapter"

This measure would limit the ability of the state, counties, cities and towns to implement land use regulations that might have the impact of reducing property values. This would include land use classifications, lot sizes, setbacks and buffering, zoning codes, building height restrictions, noise impact zones and other community standards that protect neighboring properties.

The measure would require payment by the state, counties, cities and towns if property value is reduced, even to the smallest extent, as a result of enactment or enforcement of a land use law. The result of this will be that public bodies will not impose land use laws that benefit the community as a whole if there is the chance that the regulation will impact property values, since public funds, needed for police, fire and other needs, would have to be used to defend those actions.

A property owner could submit a claim for payment from the public body without providing any documented proof of the claimed reduction in value. The reasonable expectation of the property owner when the property was acquired is not considered.

The impact on the public treasury would be devastating by having to defend against the claims property owners could make. The ability to plan communities with public input would be severely limited due to fears of claims, whether justified or not, that someone's property values would be diminished.

In addition, even though Arizona law already provides greater protections to private property owners than the US Constitution, this measure places greater limits on the ability of public agencies to accomplish slum clearance and to implement redevelopment projects.

Douglas Coleman, President, Apache Junction

Boyd W. Dunn, Vice President, Chandler

Paid for by "The League of Arizona Cities & Towns"

Please vote against Proposition 207, the Homeowners Protection Effort. There is nothing wrong with government taking your private property in areas that are blighted and giving the property to a private entity or developer who will increase the cities tax rolls. Government knows better than the property owner the best and highest use of your land, home or business.

City planners have every right to rezone your property and pay you less after they've diminished the value of your home or business if it is for the public good.

Government and developers must work together to enhance our cities and improve all our lives.

Vote NO on Proposition 207.

Lynn Hoebing, Scottsdale

The handful of wealthy landowners who paid to put Prop. 207 on the ballot are trying a classic bait and switch on Arizona voters. The bait is they want you to believe Prop. 207 is about eminent domain. The trap is in the fine print – which includes a far-reaching section unrelated to eminent domain that would lead to huge new costs for all Arizona taxpayers.

Prop. 207 would change Arizona's laws to allow large landowners and corporations to demand huge payouts from state and local taxpayers just by claiming a law has harmed the value of their property or business – no matter how important the law may be or how far-fetched the claim.

Here's one example of how the "taxpayer trap" would place taxpayers in a LOSE-LOSE situation: Suppose local voters pass a measure limiting new developments to 500 houses. Under Prop. 207 a developer who wants to build 2,000 houses could demand payment for the value of the remaining 1,500 houses. If the community cannot pay the developer, they would have to allow him to build the extra 1500 houses - even if local community services and infrastructure would be strained by the larger development. We all pay, while large landowners and corporations reap windfall payouts.

Prop. 207 also traps taxpayers into signing a blank check - with no limit on the total costs. The initiative will drown government services in red tape, tie up our courts with lawsuits, and create a massive new bureaucracy to deal with the thousands of claims for money. The cost of lawsuits and payouts will rob local communities of billions of dollars now used to fund fire and police protection, paramedic response, schools, traffic congestion relief and other vital services.

Say NO to the TAXPAYER TRAP.

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Vote NO on PROPOSITION 207.

Rodger Schlickeisen, President, Washington

Eva Lee Sargent, Ph.D., Director, Southwest
Program, Tucson

Paid for by "Defenders of Wildlife"

On behalf of the Fort Huachuca 50, vote "NO" on Proposition 207. This ballot initiative is funded by out of state interests and will severely undermine efforts by Arizonans to preserve and enhance Fort Huachuca, a major military installation and home to the US Army Intelligence Center and School. Fort Huachuca provides an annual fiscal impact to the State of Arizona that is upwards of \$2.5 billion.

We oppose 207 because it could result in the elimination of existing military missions and derail continued development of Fort Huachuca. This ballot initiative provides that any refusal by a city or county to grant residential zoning within the vicinity of a military airport would be subject to a demand for compensation. Further, it provides for a "right to compensation" when a zoning authority takes no action if the owner can show that the inaction reduces the value of his property. No input was sought or permitted from the military installations or planning and zoning authorities regarding the unintended impacts of this language.

The Department of Defense is currently realigning military forces throughout the United States. If this legislation passes, it will encourage bases outside of Arizona to attempt to "pick off" various military missions in order to protect their continued existence. For these reasons, we believe that 207 threatens the future of Fort Huachuca and all of the military installations throughout Arizona.

The Fort Huachuca 50 is a local organization in Cochise County that exists to support the continued development of Fort Huachuca. Many of our citizens invested considerable private funds through this organization to protect Fort Huachuca during the recent Base Realignment and Closure (BRAC) process. We plan to be involved in future BRAC efforts to protect Fort Huachuca.

Please vote "NO" on 207. Protect Arizona's military missions and bases.

Thomas Finnegan, President, Fort Huachuca
50, Sierra Vista

Peter Huisling, Secretary, Fort Huachuca 50,
Sierra Vista

Paid for by "Thomas M. Finnegan"

As Chair of the House Counties, Municipalities and Military Affairs Committee, I strongly urge your "no" vote on PROP 207.

I have worked tirelessly over the years in support of our state's military facilities. Our military statewide contribute over \$1.4 billion annually to Arizona's economy. They collectively play a critical role in our nation's defense and in fighting terrorism worldwide. I have personally sponsored several legislative bills and have acted to support dozens of others to help preserve the long-term mission viability of our states military.

If passed, PROP 207 would seriously undermine the zoning protections that have been put in place to ensure safe training areas and compatible development around military facilities. Furthermore, it would make our military bases vulnerable to future base realignments and closures.

All of the issues are not resolved around our military installations and this simply complicates the process because it is not well thought out. An example of a problem is the Corps of Engineers and the pace at which they are moving.

Please join me in all of our active duty, retired military and their families and military support groups that oppose this legislation and vote "NO" on PROP 207.

John Nelson, State Representative, District 12, Litchfield Park

We urge Arizonans to vote no on the Arizona Home Owners Protection Effort. We don't often raise our profile on campaign issues like these and are not taking a position on issues related to the use of eminent domain for redevelopment purposes, but other parts of this measure are too flawed for us to remain silent.

The Nature Conservancy is a land owner and knows the importance of private property rights. While we do not support government taking of private property rights where there is not a genuine public good to be served, this initiative would also deprive Arizona communities of the ability to enact reasonable land use regulations. This initiative would deter Arizona governments from developing the tools they need to balance water and development. It would do that by creating a new right to sue public bodies making good faith attempts to balance public and private land use interests.

That's good for lawyers, bad for Arizona.

For instance, in many parts of Arizona, excessive water use is causing rivers and aquifers to run dry. The Conservancy has led voluntary efforts to solve competing demands for these resources. If diverse interests can't reach agreement on how to conserve water to the benefit of all, government needs to be able to step in with a fair and balanced law. Regulation isn't always the answer, but sometimes it is. Local communities can't afford to fight a lawsuit every time they try to do the right thing for Arizona communities.

The state and federal constitutions already protect property owners from unreasonable "regulatory takings." This initiative isn't about fixing past wrongs. It's about a few special interests trying to deprive the government of

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the ability to help preserve our natural heritage. Vote no on this initiative.

Pat Graham, State Director, Glendale

John Graham, Chair, Board of Trustees,
Paradise Valley

Paid for by "The Nature Conservancy"

The Arizona Preservation Foundation asks you to vote no on Proposition 207. It goes far beyond the issue of government condemning private land for another's private use. While the Arizona Preservation Foundation recognizes that the record of governments using eminent domain is not perfect and it supports eminent domain reform, this initiative is not the solution. Proposition 207 would seriously cripple local historic preservation efforts and it jeopardizes the ability of local government to make land use and zoning decisions. For example, many Arizona communities place significant historic properties and neighborhoods on historic registers to recognize past accomplishments.

The proposition language on "diminution of value" opens the door for frivolous lawsuits and guarantees that any land use action, including historic recognition, could be subject to litigation and be charged with diminishing property values. In fact there have been many studies showing that designating properties as historic increases, not decreases, property values. Even though there is ample documentation to support this argument, any government action related to historic preservation could be subject to owners demanding compensation for alleged diminished value. The "diminish in value" language in Proposition 207 is a fatal flaw.

There are also already regulations providing for just compensation for eminent domain. The proposition goes far beyond the constitutional just compensation requirements and raises taxpayer expenses for creating historic districts or other special overlays. What Proposition 207 really does is it hinders the ability of elected officials to make decisions or to establish historic preservation programs with incentives for assisting owners. Many decisions by local elected officials, following a public hearing, have broad public support. Should an owner be paid taxpayer money for government actions with broad community support? No. Vote no on Proposition 207.

Vince Murray, President, Tempe

Donald H. Meserve, Secretary, Scottsdale

Paid for by "Arizona Preservation Foundation"

An Illinois-based organization created and promoted this proposal, which would cost Arizona taxpayers dearly and would trample on the property rights of Arizonans who live or own property near a land speculator who wishes to take advantage of it. City, town and county governments would have to divert their tax revenue from legitimate public needs such as health care, public safety, transportation, and parks to compensate land speculators who claim a government land-use decision reduced the value of their land. Many land-use decisions protect the property value, safety and aesthetic enjoyment of existing residents against objectionable proposals of developers and speculators. This residential neighborhood viability, wildlife habitat, flood plains, and buffers between conflicting land uses. Your local tax money has better purposes than paying for the lawyers and land speculators who would benefit from enactment of this measure. I urge you to vote "NO" on Proposition 207.

Richard Elías, Chairman, Pima County Board of Supervisors, Tucson

Paid for by "Richard Elías For Supervisor"

While there have been abuses of eminent domain in Arizona, the Private Property Protection Act goes too far in attempting to limit government regulation of private property. In particular, this Initiative not only would impose limits on the ability of public bodies to condemn private property but would also make the state, counties, cities and towns potentially liable for damages based on an individual land owner's claimed reduction in value where non-discriminatory land-use regulations affecting entire communities or larger land areas are put into effect, even where the majority of the affected land owners are in favor of the regulation. As just one example, if residents of an area that has developed as residential subdivisions petition their city or town to establish a zoning overlay to protect the character of the area, just one disgruntled land owner could potentially thwart that action by claiming damages due to a claimed reduction in value, thereby exposing the municipality to potential damages if the overlay is granted. Over the last 20 years, Arizona communities have grown at an incredible pace and that growth continues today. We need to preserve sufficient flexibility to allow our public bodies to adopt regulations that accommodate the ever-changing circumstances presented by growth at that unprecedented rate. To date, while not perfect, Arizona's framework of state and local land-use regulations has generally managed to do a reasonable job of balancing the interests of individual property owners against the needs and interests of the larger community. We do not need this kind of sledgehammer approach to land-use regulation in Arizona.

Rebecca Lynne Burnham, Phoenix

Vote No on Proposition 207

Proposition 207 goes too far. If passed, Proposition 207 will cost taxpayers millions of dollars and create thousands of frivolous lawsuits. That's because virtually anyone will have the ability to sue, claiming a new zoning regulation has affected their property values, all at the expense of other taxpayers.

Prop 207 subjects government takings to judicial review. This cost, including plaintiff and defendant fees as well as any award, will be borne by taxpayers. Spending extensive money on unnecessary legal costs will drain the financial resources available to cities to provide important public services, including jeopardizing police and fire staffing.

Spelling, grammar and punctuation were reproduced as submitted in the "for" and "against" arguments.

Local communities would no longer be able to decide what types of projects get built in their neighborhood. Neighborhoods need to keep the right to have a say in the decisions on what type of projects are placed in their area. Proposition 207 would take away your right to influence decisions that could benefit your neighborhood, your investment in your home and the quality of life enjoyed by you and your children.

I urge you to vote NO on Proposition 207. It's just too extreme.

Larry Landry, Phoenix

Vote NO on Proposition 207 because it will cost taxpayers millions of dollars that could be spent on necessary public services such as police and fire. This initiative masquerades as eminent domain reform, but it will really force neighborhoods to accept development that they do not want. **For example** if a city or county decides that 50 homes can be built on a parcel of land and the developer believes that the property could hold 200 homes—your **tax dollars** would be used to **pay** the developer for the perceived lost 150 homes.

It will result in the use of your tax dollars to pay for denied rezoning requests, building height limits or other new regulations and all associated court costs even if the case is frivolous. A NO vote will maintain local decision making authority on the following:

- Land use laws governing the use of property;
- Limits on building height, building setbacks, or increased landscape setbacks;
- Locally created design standards that build community character;
- Modifications and updates to General Plans;
- Land use protections for military installations such as Luke and Davis-Monthan Air Force bases and

Marine Corps Air Station Yuma;

- Preservation of historic buildings, and neighborhood-developed area plans;
- Regulation of building design standards; and
- Enactment or enforcement of future property maintenance requirements.

Approval of this proposition will cost Arizona taxpayers millions of dollars, will negatively impact the economic vitality of the State, will be detrimental to the environment and will negatively impact your neighborhood and your larger community. The Arizona Planning Association advocates for wise and balanced land use planning throughout the State of Arizona and as such we urge you to vote NO on Proposition 207.

Alan Stephenson, Vice-President for Legislative Affairs, Arizona Planning Association, Phoenix Jill Kusy, AICP, President-Elect, Arizona Planning Association, Scottsdale

Paid for by "Alan Stephenson"

Fighter Country Partnership urges the voters of Arizona to vote "**NO**" on PROP 207.

Luke Air Force Base is recognized and valued as the premier location to conduct flight training, and trains 95% of all F-16 fighter pilots. The preservation of Luke's ability to perform its training mission is critical in today's Global War on Terrorism.

Fighter Country Partnership is a community-based organization whose sole purpose is to support the Luke men and women who serve our country, and to protect and enhance the long-term viability of the Luke Air Force Base mission – training the world's best F-16 fighter pilots and maintainers.

Our members are a diverse group of citizens, business people, elected officials, veterans and military retirees who support Luke Air Force Base and want to ensure its future in Arizona.

A "NO" vote on PROP 207 will make sure that:

- Appropriate land use zoning can continue to ensure that development surrounding Luke AFB remains compatible with Luke's military mission and operations.
- Local governments continue to have the ability to adjust existing zoning restrictions to protect existing military missions as well as entice future missions to Arizona's military bases such as training for the next generation of war-fighters, the Joint Striker Fighter Wing.
- A strong message is sent to special interest groups from outside of Arizona that try and dictate what's best for the communities surrounding Luke Air Force Base.
- Future Base Realignment and Closure (BRAC) Commissions will recognize that Arizona continues to lead the nation in its support of our military and their training installations, thereby helping ensure Luke's long-term mission viability, training the world's best fighter pilots.

Lisa A. Atkins, President, Fighter Country Partnership, Litchfield Park

Steve Yamamori, Executive Director, Fighter Country Partnership, Goodyear

Paid for by "Fighter Country Partnership"

BALLOT FORMAT

PROPOSITION 207

PROPOSED AMENDMENT BY INITIATIVE PETITION

OFFICIAL TITLE

AN INITIATIVE MEASURE
AMENDING TITLE 12, CHAPTER 8, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 2.1; RELATING TO THE PRIVATE PROPERTY RIGHTS PROTECTION ACT.

DESCRIPTIVE TITLE

ESTABLISHES RIGHTS WHEN GOVERNMENT TAKES PROPERTY FOR PUBLIC USE (EMINENT DOMAIN); DEFINES "PUBLIC USE" TO INCLUDE PUBLIC AND PUBLIC AGENCY USE, UTILITIES, ACQUIRING ABANDONED AND HAZARDOUS PROPERTY; PROHIBITS TAKING PROPERTY FOR ECONOMIC DEVELOPMENT; REQUIRES COMPARABLE REPLACEMENT OF PRIMARY RESIDENCES; REQUIRES COMPENSATION FOR DECREASED PROPERTY VALUE RESULTING FROM LAND USE LAWS.

PROPOSITION 207

A "yes" vote shall have the effect of [1] establishing additional rights for individuals whose property is taken by the government for public use (eminent domain), [2] defining "public use," [3] prohibiting the taking of property for economic development, [4] requiring primary residences taken by eminent domain be replaced by a comparable dwelling, [5] requiring compensation for property values reduced by land use laws, [6] requiring attorneys fees' in eminent domain lawsuits, and [7] allowing attorneys' fees in property value reduction lawsuits.

YES

A "no" vote shall have the effect of retaining the current eminent domain law.

NO

PROPOSITION 207

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