

RW & G E-ALERT**EMINENT DOMAIN****February 2008****Two Eminent Domain Reform Initiatives
Will Appear on the June 2008 Ballot**

Two eminent domain reform initiatives have qualified for the June 2008 ballot. The first initiative, Proposition 98, is the California Property Owners and Farmland Protection Act. Its sponsors are the Howard Jarvis Taxpayers Association, the California Farm Bureau Federation, and the California Alliance to Protect Private Property Rights. The second initiative, Proposition 99, is the Homeowners and Private Property Protection Act. The sponsors of Proposition 99 are the League of California Cities, the League of California Homeowners, and the California League of Conservation Voters.

Proposition 98 prohibits a public entity from using eminent domain to transfer the ownership, occupancy or use of a property to a private party, including for the consumption and use of natural resources such as conservation and open space easements. Proposition 98 also:

- Prohibits a public entity from limiting the price a private owner may charge another person to purchase, occupy or use his or her real property. It thus impacts the ability of a public entity to enact new rent control ordinances or regulations. It would allow existing regulations to remain in place until the current tenant vacates the unit.
- Prohibits a public entity from using the power of eminent domain to acquire property for a use similar to the use made by the owner.
- Prohibits a public entity from acquiring real property or associated property rights in order to transfer an economic benefit to private persons at the expense of the property owner. This may impact the ability of public entities to impose certain land-use regulations, conditions of development, or environmental mitigations if they are deemed to transfer an economic benefit to others at the expense of the property owner. This provision may also prohibit public entities from enforcing inclusionary housing ordinances if such ordinances are mandatory and are deemed to transfer an economic benefit to others at the expense of the property owner.
- Provides that just compensation includes the fair market value of the property, reasonable costs and attorney fees when the amount of the judgment is greater than the public entity's offer, and any additional actual and necessary amounts to compensate the owners.

- Makes additional substantive changes to the Eminent Domain Law.

The provisions of Proposition 98 would take effect the day after the election, except for the rent control provisions discussed above.

Proposition 99 would prohibit a public entity, including a redevelopment agency, from taking by eminent domain an owner-occupied residence to convey it to a private person. Proposition 99 does not apply to acquisitions for public works and improvements. Proposition 99 provides that if another initiative measure dealing with eminent domain reform appears on the same statewide ballot as Proposition 99, all of the provisions of the other measure are deemed to conflict with those of Proposition 99. If Proposition 99 receives more votes than Proposition 98, then Proposition 99 would take effect over Proposition 98.

FOR ADVICE FROM RW&G CONCERNING THE 2008 EMINENT DOMAIN REFORM INITIATIVES, PLEASE CONTACT PAULA BAEZA AT PBAEZA@RWGLAW.COM OR KIRSTEN R. BOWMAN AT KBOWMAN@RWGLAW.COM OR ANY OF THE LAWYERS IN THE FIRM'S EMINENT DOMAIN PRACTICE GROUP.

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