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INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

February 26, 2007

07-0006

VIA PERSONAL DELIVERY

The Honorable Edmund G. Brown, Jr.
Attorney General
1300 I Street
Sacramento, CA 95814

Attention: Patricia Galvan, Initiative Coordinator

Re: Request for Title and Summary- Initiative Constitutional Amendment

Dear Mr. Brown:

I am one of the proponents of the attached initiative constitutional amendment. Pursuant to Article II, Section 10(d) of the California Constitution and Section 9002 of the Elections Code, I hereby request that a title and summary be prepared. Enclosed is a check for $200.00. My residence address is attached.

All inquires or correspondence relative to this initiative should be directed to Nielsen, Merksamer, Parrinello, Mueller & Naylor, LLP, 1415 L Street, Suite 1200, Sacramento, CA 95814; Attention: Steve Lucas (telephone: 415/389-6800).

Thank you for your assistance.

Sincerely,

Christopher K. McKenzie, Proponent

Enclosure: Proposed Initiative

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Thank you for your assistance.

Sincerely,

Susan Smartt, Proponent

Enclosure: Proposed Initiative

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FEB 27 2007
INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

February 23, 2007

07-0006

VIA PERSONAL DELIVERY

The Honorable Edmund G. Brown, Jr.
Attorney General
1300 I Street
Sacramento, CA 95814

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Thank you for your assistance.

Sincerely,

Kenneth Willis, Proponent

Enclosure: Proposed Initiative

TITLE: This measure shall be known as the "Homeowners and Private Property Protection Act."

SECTION 1: PURPOSE AND INTENT

By enacting this measure, the people of California hereby express their intent to:

A. Protect their homes from eminent domain abuse.

B. Prohibit government agencies from using eminent domain to take an owner-occupied home to transfer it to another private owner or developer.

C. Amend the California Constitution to respond specifically to the facts and the decision of the U.S. Supreme Court in *Kelo v. City of New London*, in which the Court held that it was permissible for a city to use eminent domain to take the home of a Connecticut woman for the purpose of economic development.

D. Respect the decision of the voters to reject Proposition 90 in November 2006, a measure that included eminent domain reform but also included unrelated provisions that would have subjected taxpayers to enormous financial liability from a wide variety of traditional legislative and administrative actions to protect the public welfare.

E. Provide additional protection for property owners without including provisions, such as those in Proposition 90, which subjected taxpayers to liability for the enactment of traditional legislative and administrative actions to protect the public welfare.

F. Maintain the distinction in the California Constitution between Section 19, Article I, which establishes the law for eminent domain, and Section 7, Article XI, which establishes the law for legislative and administrative action to protect the public health, safety and welfare.

G. Provide a comprehensive and exclusive basis in the California Constitution to compensate property owners when property is taken or damaged by state or local governments, without affecting legislative and administrative actions taken to protect the public health, safety and welfare.

SECTION 2: AMENDMENT TO THE CALIFORNIA CONSTITUTION

Section 19 of Article I of the California Constitution is hereby amended to read:

Sec. 19. *(a)* Private property may be taken or damaged for a public use and only when just compensation, ascertained by a jury unless waived, has first been paid to, or into court for, the owner. The Legislature may provide for possession by the condemnor following commencement of eminent domain proceedings upon deposit in court and prompt release to the owner of money determined by the court to be the probable amount of just compensation.

(b) The State and local governments are prohibited from acquiring by eminent domain an owner-occupied residence for conveyance to a private person.

(c) Subdivision (b) of this Section does not apply when the acquisition of private property by eminent domain is for a Public work or improvement or when State or local government exercises the power of eminent domain to abate a nuisance; to protect public health and safety from building, zoning or other code violations; to prevent serious, repeated criminal activity; to respond to an emergency; or to remedy environmental contamination that poses a threat to public health and safety.

(d) For the purpose of this section:

1. *"Conveyance" means a transfer of real property whether by sale, lease, gift, franchise, or otherwise.*

2. *"Local government" means any city, including a charter city, county, city and county, school district, special district, authority, regional entity, redevelopment agency, or any other political subdivision within the State.*

3. *"Owner-occupied residence" means real property that is improved with a single family residence such as a detached home, condominium, or townhouse and that is the owner or owners' principal place of residence for at least one year prior to the State or local government's initial written offer to purchase the property. Owner-occupied residence also includes a residential dwelling unit attached to or detached from such a single family residence which provides complete independent living facilities for one or more persons.*

4. *"Person" means any individual or association, or any business entity, including, but not limited to, a partnership, corporation, or limited liability company.*

5. *"Public work or improvement" means facilities or infrastructure for the delivery of public services such as education, police, fire protection, parks, recreation, emergency medical, public health, libraries, flood protection, streets or highways, public transit, railroad, airports and seaports; utility, common carrier or other similar projects such as energy-related, communication-related, water-related and waste-water-related facilities or infrastructure; projects identified by a State or local government for recovery from natural disasters; and private uses incidental to, or necessary for, the Public work or improvement.*

6. *"State" means the State of California and any of its agencies or departments.*

SECTION 3. The meaning of the terms in subdivision (a) of Section 19, Article I of the California Constitution, including, without limitation, "taken," "damaged," "public use," and "just compensation," are deliberately not changed by this measure.

SECTION 4. The provisions of Section 19, Article I, together with the amendments made by this initiative, are the exclusive and comprehensive basis in the California Constitution for providing compensation to property owners when private property is

taken or damaged by state or local government. Nothing in this initiative shall limit the ability of the Legislature to provide compensation in addition to that which is required by Section 19 of Article I to property owners whose property is taken or damaged by eminent domain.

SECTION 5. The amendments made by this initiative shall not apply to the acquisition of real property if the initial written offer to purchase the property was made on or before January 1, 2008, and a resolution of necessity to acquire the real property by eminent domain was adopted on or before December 31, 2008.

SECTION 6. The words and phrases used in the amendments to Section 19, Article I of the California Constitution made by this initiative which are not defined in subdivision (d), shall be defined and interpreted in a manner that is consistent with the law in effect on January 1, 2007 and as that law may be amended or interpreted thereafter.

SECTION 7. The provisions of this measure shall be liberally construed in furtherance of its intent to provide homeowners with protection against exercises of eminent domain in which an owner-occupied residence is subsequently conveyed to a private person.

SECTION 8. The provisions of this measure are severable. If any provision of this measure or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SECTION 9. In the event that this measure appears on the same statewide election ballot as another initiative measure or measures that seek to affect the rights of property owners by directly or indirectly amending Section 19, Article I of the California Constitution, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and each and every provision of the other measure or measures shall be null and void.