

April 25, 2003

Hon. Bill Lockyer  
Attorney General  
1300 I Street, 17<sup>th</sup> Floor  
Sacramento, California 95814

Attention: Ms. Tricia Knight  
Initiative Coordinator

Dear Attorney General Lockyer:

Pursuant to Elections Code Section 9005, we have reviewed the proposed initiative entitled "The California Property Rights Initiative" (File No. SA2003RF0007).

### **Major Provisions**

This measure would significantly change the circumstances in which a property owner could seek compensation from a state or local government for the reduction of a property's value that resulted from a government action.

Currently, the State Constitution requires that a property owner be provided "just compensation" when a property is taken or damaged for public use. Whether a property owner deserves compensation for a loss in property value is determined by civil courts, based on standards established through case law. These standards evaluate the government action and the subsequent decline in property value based on factors such as the purpose of the action, the reasonable expectations of the owner for the use of the land, and the extent to which the owner is deprived of an economic use of the land.

This measure amends the Constitution to define a variety of terms relating to the existing constitutional provision regarding property compensation. Generally speaking, this measure would make it *easier* for a property owner to receive compensation.

In specified circumstances, the measure would allow people to receive compensation for government actions which lower their property's fair market value. Those government actions subject to the measure include those which disproportionately impose the burdens of public benefit on a property owner.

The measure exempts from its provisions: (1) nuisance laws (generally those laws preventing the use of property in ways which inconvenience others) and (2) the implementation of federal law.

### **Fiscal Effect**

State and local governments take many actions that affect the value of peoples' property. For example, local governments regulate the use of property through zoning requirements, and the state affects property values through regulatory restrictions on pollution and timber harvesting.

Under the measure, governments would face greater liability for damage claims than under current law. The magnitude of this exposure is unknown—as it would depend largely on subsequent court interpretations of the measure—but is probably major. The state and local governments, however, could reduce their exposure by limiting the number of future actions that could result in reductions in peoples' property values.

Even with the ability to reduce financial exposure, the state and local governments would still face the following potential costs:

- *Administrative Costs.* Both the state and local governments would incur increased legal and planning costs to determine whether compensation would be required under potential actions. Governments would also incur legal expenses for civil actions that were filed by property owners seeking compensation.
- *Direct Compensation Costs.* Governments would also incur costs to compensate property holders for actions requiring compensation under the measure. These costs would be both for cases of temporary and permanent losses.

These costs are unknown, but probably major.

### **Summary**

The measure would have the following fiscal effect on the state and local governments:

- Unknown, but probably major, annual administrative and claim costs to provide compensation to property holders damaged by government actions.

Sincerely,

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Elizabeth G. Hill  
Legislative Analyst

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Steve Peace  
Director of Finance