

April 4, 2007

Hon. Edmund G. Brown Jr.  
Attorney General  
1300 I Street, 17<sup>th</sup> Floor  
Sacramento, California 95814

Attention: Ms. Toni Melton  
Initiative Secretary

Dear Attorney General Brown:

Pursuant to Elections Code Section 9005, we have reviewed the proposed initiative concerning eminent domain (A.G. File No. 07-0006).

### **Background**

To build public transportation and other facilities, promote economic development, and/or carry out other public policies, California state and local agencies sometimes buy private property. When government acquires property, it typically negotiates with the property owner regarding the amount of compensation to be provided. Sometimes, however, a public agency and owner cannot agree upon the value of the property, or the owner does not want to sell the property.

Under the United States and California Constitutions and other statutes, public agencies may use eminent domain to involuntarily acquire private property if they pay just compensation to the owner. Just compensation includes money to reimburse the owner for the property's "fair market value" (what the property and its improvements would sell for on an open market), plus any reduction in the value of remaining portions of the parcel that government did not take.

### **Proposal**

This measure constrains public agency authority to use eminent domain to acquire single-family homes (including condominiums) for the purpose of transferring the property to another private person or business.

Specifically, the measure prohibits government from using eminent domain to acquire a home for this purpose unless one (or more) of the following conditions apply:

- The property owner does not live in the home, or has lived there for less than a year.
- The property will be used for a public work or improvement.
- Government is seeking to abate a nuisance; protect public health and safety from building, zoning, or other code violations; prevent serious criminal activity; respond to an emergency; or remedy environmental contamination that poses a threat to public health and safety.

### **Fiscal Impact**

Under current law and practice, government seldom uses eminent domain to acquire single-family homes. Even when it does so, the acquisition is sometimes for a purpose that is exempt under the measure (such as construction of a road, school, or other public improvement). Accordingly, this measure is not likely to significantly alter current government land acquisition practices.

In some cases, however, this measure could result in: (1) government *savings* because government could not acquire a home that the owner did not wish to sell and/or (2) government *costs* because it might pay more to buy a home than would have been the case if it could have acquired the home using eminent domain. The net fiscal effect of such actions are not likely to be significant.

*Summary of Fiscal Effects.* The measure would likely not have a significant fiscal impact on state or local governments.

Sincerely,

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Elizabeth G. Hill  
Legislative Analyst

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Michael C. Genest  
Director of Finance