



# PROS & CONS

Statewide Direct Primary Election June 3, 2008

Press Date: April 14, 2008  
President: Janis R. Hirohama

The League of Women Voters, a nonpartisan political organization, encourages informed and active participation in government. The League also influences public policy through action and advocacy. The League does not support or oppose candidates or political parties.

The League of Women Voters of California Education Fund publishes the Pros & Cons of the state ballot measures, an explanation of the propositions on the state ballot, and the main arguments of their proponents and opponents. The League does not judge the merits of the arguments nor does it guarantee their validity. Arguments come from many sources and are not limited to those found in the *Official Voter Information Guide*.

### League of Women Voters® of California Education Fund

801 12<sup>th</sup> Street, Suite 220  
Sacramento, CA 95814

916 442.7215  
916 442.7362 (Fax)  
888 870.VOTE (Toll free)  
lwvc@lwvc.org

[www.lwvc.org](http://www.lwvc.org)  
[www.smartvoter.org](http://www.smartvoter.org)  
[www.easyvoter.org](http://www.easyvoter.org)

© Copyright 2008 League of Women Voters of California Education Fund. No portion of the Pros & Cons may be reprinted without the express permission of the League of Women Voters of California Education Fund.

## What is Eminent Domain?

*Editor's Note: Both Proposition 98 and Proposition 99 deal with the subject of "eminent domain" as it pertains to the California Constitution. To better understand the issue, we are providing the following overview of the definitions and principles behind the use of eminent domain in California.*

California's state and local governments sometimes purchase private property in order to build public transportation, schools, parks and other public facilities. Most of these purchases are negotiated between private property owners and public agencies. But, when the owner does not want to sell or does not agree with the price offered, the public agency may use eminent domain to acquire the property.

Eminent domain is the power of governments to take private property for a public use as long as the government provides fair compensation to the property owner. In addition to building facilities for public use, governments occasionally take property for a variety of other public purposes—for example, to address "public nuisances" (such as hazardous buildings and criminal activity), to correct environmental problems, or to enhance tax revenues by developing new businesses in an economically depressed area.

Current law does not restrict how a public agency may use property acquired through eminent domain or require the agency to return property to its previous owner if it no longer uses the property for its original purpose. Although owners can challenge the government's right to take their property, it is difficult for them to win and keep their land, in part because the courts give deference to a public agency's eminent domain findings and usually limit their review to the information in the administrative record.



**Election Day is Tuesday, June 3, 2008.**

**Polls are open from 7 a.m. to 8 p.m.**

**May 19, 2008 is the last day to register to vote in the June 3 Primary Election.**



## Voting By Mail

The last day that your County Elections Official can accept a mailed application for a vote-by-mail ("absentee") ballot is May 27. You may apply in person for a vote-by-mail ballot at the office of your County Elections Official through Election Day. Your completed ballot must be in the hands of your County Elections office by 8 p.m. on Election Day, June 3, 2008.

## Eminent Domain. Limits on Government Authority.

### THE QUESTION

Should the California constitution be amended to restrict state and local governments' authority to take private property through eminent domain, as well as phase out local rent control regulations?

### THE SITUATION

The power of eminent domain allows governments (local, state or federal) to take property for public use, even from an unwilling seller, as long as they pay a fair price for it. Typical public uses include parks, roads, and schools. Public use may also include goals such as downtown redevelopment, affordable housing, or crime reduction. Governments usually build and operate public projects, but they sometimes transfer property to private businesses or nonprofit organizations for redevelopment projects.

State law allows local governments to place limits on how much a landlord may increase a tenant's rent each year, commonly referred to as "rent control." Over a dozen California cities currently have some form of rent control for apartments, and about 100 cities and counties limit the rent that mobile home park owners may charge for space in their park.

### THE PROPOSAL

Proposition 98 would amend the state Constitution in two major ways. This proposition would restrict state and local government authority to take private property through eminent domain by prohibiting the following:

- Taking property and transferring it to another private person or organization, for any reason other than public safety.
- Taking property to use it in the same way as its previous owner had used it, or reselling property that was taken or changing its intended public use, without first giving the previous owner a chance to buy it back at the price paid.

Additionally, in the event that an owner challenges the government's right to take the property, Proposition 98 would require the court hearing the case to exercise independent judgment, rather than defer to the public agency's findings.

Proposition 98 would not prevent state and local governments from continuing to own and take private property for public works and public facilities.

This proposition would also prohibit rent control laws. However, tenants currently affected by rent control protections adopted prior to 2007 would continue to have their rent increases limited

by those regulations until they move from their current apartment or mobile home park space.

### FISCAL EFFECT

According to the Legislative Analyst, while individual governments may face increased costs to acquire land for public use, the net statewide fiscal effect probably would not be significant.

### WHAT A "YES" VOTE MEANS

Government authority to take private property in order to transfer it to another private person or organization would be greatly reduced, and rent control laws would be phased out.

### WHAT A "NO" VOTE MEANS

Government could continue to take property for a public purpose as long as the owner is paid for its value, and government jurisdictions could continue to implement and adopt rent control measures.

### SUPPORTERS SAY

- ★ Proposition 98 makes it illegal for government to seize homes, small businesses, family farms and places of worship and then transfer them to private parties for their private use or profit.
- ★ This proposition makes it illegal for city and county governments to force owners to rent their properties at below fair market value.

### OPPONENTS SAY

- ★ Proposition 98 is a deceptive scheme by wealthy landlords to abolish rent control and other protections, such as laws requiring fair return of deposits and prohibiting unfair eviction.
- ★ This proposition contains hidden provisions that would hurt communities by making it harder to ensure our supply of drinking water and our ability to protect public safety.

### FOR MORE INFORMATION

#### Supporters:

916 556.1110 ★ Californians for Property Rights Protection  
[www.YesProp98.com](http://www.YesProp98.com)

#### Opponents:

888 362.2337 ★ Stop the Landlords' Hidden Agendas Scheme  
[www.NoProp98.org](http://www.NoProp98.org)

## Eminent Domain. Limits on Government Acquisition of Owner-Occupied Residence.

### THE QUESTION

Should the California constitution be amended to restrict state and local governments' authority to take owner-occupied dwellings through eminent domain?

### THE SITUATION

The power of eminent domain allows governments (local, state or federal) to take property for public use, even from an unwilling seller, as long as they pay a fair price for it. Typical public uses include parks, roads, and schools. Public use may also include goals such as downtown redevelopment, affordable housing, or crime reduction. Governments usually build and operate public projects, but they sometimes transfer property to private businesses or nonprofit organizations for redevelopment projects.

### THE PROPOSAL

Proposition 99 would change the state Constitution to limit governments' use of eminent domain in certain circumstances. Specifically, Proposition 99 would prohibit state and local governments from taking an owner-occupied dwelling (including a condominium) in which the owner has resided for a year or longer, for the purpose of transferring it to another private party such as a person, business, or association.

Proposition 99 would also require that if it passes by a greater number of votes than Proposition 98, none of the provisions of Proposition 98 would become law.

### FISCAL EFFECT

According to the Legislative Analyst, since the kind of taking prohibited by this proposition is uncommon, Proposition 99 will have little effect on eminent domain proceedings in California. Individual governments may face increased costs to acquire specific property for public use, but the net statewide fiscal effect probably would not be significant.

### WHAT A "YES" VOTE MEANS

Governments would no longer be able to use eminent domain to take an owner-occupied residence for the purpose of transferring it to a private party.

### WHAT A "NO" VOTE MEANS

There would be no change in government authority to take an owner-occupied residence for a public purpose as long as the owner is paid for its value.

### SUPPORTERS SAY

- ★ Proposition 99 prohibits government from using eminent domain to take someone's home to transfer it to a private developer.
- ★ Proposition 99 is straightforward: it is the best way to protect homeowners, without hidden agendas..

### OPPONENTS SAY

- ★ Proposition 99 looks like it protects homeowners, but it does almost nothing.
- ★ The politicians and developers who paid more than \$4 million to put Proposition 99 on the ballot are trying to defeat Proposition 98 by confusing voters with a similar, weaker measure.

### FOR MORE INFORMATION

#### Supporters:

888 362.2337 ★ Protect Homeowners from Eminent Domain  
[www.YesProp99.com](http://www.YesProp99.com)

#### Opponents:

916 556.1110 ★ Californians for Property Rights Protection  
[www.NoProp99.org](http://www.NoProp99.org)

## Important Information about "Decline-to-State" Voters

If you are a voter who has "declined-to-state" an affiliation with a political party, your June ballot will not have any candidates for U.S. Representative, State Assembly or State Senate on it. However, the **American Independent Party**, **Democratic Party** and **Republican Party** are allowing decline-to-state voters to request and vote their party's ballot (with the exception of county central committee candidates) in the June 3, 2008, Statewide Direct Primary Election.

### IF YOU VOTE IN PERSON

If you are registered "decline-to-state" and want to vote for candidates from one of the above parties, you must ask for that ballot when you go to your polling place on Election Day.

### IF YOU VOTE-BY-MAIL

If you are a vote-by-mail voter and you would like to vote for candidates from one of these parties, you must request that party's ballot prior to being issued a vote-by-mail ballot. Each County Elections office is required to mail to all decline-to-state voters who are registered as permanent vote-by-mail voters a notice and application regarding voting in the primary election. The notice will inform you that you may request a vote-by-mail ballot for the **American Independent Party**, **Democratic Party** and **Republican Party** for the June 2008 Primary Election.

If you have already been issued a nonpartisan ballot but would like to request a party ballot, contact your County Elections office.

## Local Leagues in California

To learn more about the ballot or request a Pros & Cons speaker, find your local League at [www.lwvc.org](http://www.lwvc.org).

Alameda  
Beach Cities  
Benicia  
Berkeley/Albany/Emeryville  
Butte County  
Capistrano Bay Area  
Central Orange County Area  
Claremont Area  
Cupertino/Sunnyvale  
Davis  
Diablo Valley  
East San Diego County  
East San Gabriel Valley  
Eastern Sierra  
The Eden Area  
El Dorado County  
Escondido  
Fremont/Newark/Union City  
Fresno  
Glendale/Burbank  
Humboldt County  
Kern County  
Livermore/Amador Valley  
Long Beach Area  
Los Altos/Mountain View Area  
Los Angeles  
Marin County  
Marysville/Yuba City  
Mendocino County  
Merced County  
Monterey Peninsula  
North Coast San Diego County  
North Orange County  
North and Central San Mateo County  
Northwest Riverside County  
Oakland  
Orange Coast  
Palo Alto  
Palos Verdes Peninsula  
Pasadena Area  
Piedmont  
Placer County  
Redding Area  
Sacramento County  
The Salinas Valley  
San Bernardino  
San Diego  
San Francisco  
San Joaquin County  
San Jose/Santa Clara  
San Luis Obispo County  
Santa Barbara  
Santa Cruz County  
Santa Maria Valley  
Santa Monica  
Sonoma County  
South San Mateo County  
Southwest Santa Clara Valley  
Stanislaus County  
Torrance  
Tulare County  
Ventura County  
West Contra Costa County  
Western Nevada County  
Whittier  
Woodland

## How To Evaluate Ballot Propositions

- ★ Who are the real sponsors and opponents of the measure? Investigate the names of groups with which you are not familiar.
  - ★ Does the measure deal with one issue that can be easily decided by a “yes” or “no,” or is it a complex issue that should be thoroughly examined in the legislative arena?
  - ★ Is it written well? Are there conflicts in the measure that may require court resolution or interpretation? Is it “good government,” or will it cause more problems than it will resolve?
  - ★ If the measure amends the Constitution, consider whether it really belongs in the Constitution. Amending the Constitution is cumbersome and costly and requires a vote of the people. Would a statute accomplish the same purpose?
  - ★ Does the measure create its own revenue source? Does it earmark, restrict, or obligate a specific percentage of General Fund revenues? Consider the effect on the overall flexibility of the budget.
  - ★ Examine the measure by its merits. During the campaign, be wary of distortion tactics and commercials that rely on image but tell nothing of substance about the measure.
- Courtesy of Margaret Craig, LWV Orange Coast

## Not a member? Join the League of Women Voters.

The League of Women Voters of California is strictly nonpartisan; we never support or oppose any political party or candidate. At the same time, we are wholeheartedly political, working to influence public policy through education and advocacy. Membership in the League is open to citizens of voting age. Others are invited to join as associate members.

- Yes, I want to join. Enclosed is my check for \$55.00 payable to the LWVC.**
- Please sign me up for the monthly e-newsletter.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City

\_\_\_\_\_  
ZIP

\_\_\_\_\_  
Phone

\_\_\_\_\_  
E-mail

Complete and mail to: **LWVC** ★ 801 12<sup>th</sup> St., Suite 220, Sacramento, CA 95814

Dues and gifts to the League of Women Voters of California are not tax deductible.  
Gifts to the LWVC Education Fund are tax deductible.



**Every car counts!**

**Donate your car, truck, motorcycle, RV or boat to the League of Women Voters.**

We'll pick it up. You'll support the League, get a tax deduction and avoid the headache of disposing of an unwanted vehicle.

**League of Women Voters of California Education Fund**

[www.lwvc.org](http://www.lwvc.org) **Call 800 320.0476**

Encouraging informed and active participation in government and influencing public policy since 1920.