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Guest Editorial
Tucson Citizen / Arizona Daily Star

Yes on 300

"....nor shall private property be taken for public use without just compensation." 5th Amendment: U. S. Constitution.

"I believe there are more instances of the abridgment of freedom of the people by gradual and silent encroachments of those in power than by violent and sudden usurpations." James Madison, 1788.

There has been much discussion of late in regard to Proposition 300. What is Proposition 300? What will it do? What are the ramifications upon Passage?

Put simply: Proposition 300 provides a mechanism to assure that the civil rights of property owners aren't overlooked when a new State regulation is adopted. When our Government needs to widen a street for the public good they condemn the property, taking it from you and paying you for it. When our Government wishes to create a regulation to prohibit a specific use of property they do not pay you for it; they merely deny your right to utilize your property. The loss which you may suffer as a result is your non-tax deductible "donation" to the public good.

The Fifth Amendment to our U. S. Constitution assures us that we will be paid if the Government takes our property for public use and the Courts have historically supported compensation to the property owner if all, or substantially all, of the use is taken away. While the Supreme Court has been relatively responsive in the recent past in protecting the rights of the property owner from "complete takings" they have yet to fully address the issue of "partial takings" (i. e., "regulatory takings") which limit the use of your property. Proposition 300 is directed at protecting property owners from the impacts of these "partial takings" and assuring that your civil rights as a property owner are respected.

How much power is too much power?

If the Government mandated you to house the homeless in your spare bedroom how would you react? If the Government created a regulation forcing you to turn off the lights in your home after 8:00 PM so that local astronomers could see the stars better would you believe your rights had been infringed? Is it right for Government to create "long term management plans" which devalue the land subject to the plan and make no provision to compensate the property owners? Is it right for our Government to deny your right to occupy your home for 4 months each year because there is a breeding pair of wolves a mile away?

Proposition 300 addresses the bigger question: "How much of your property rights can the Government *take* BEFORE they have to compensate you?" If someone broke into your home, how much of your property would you allow him to take before you called him a thief? If you believe as I do that it is unjust for the Government to take away a man's property without paying him, then your answer will be to vote YES on Proposition 300.

Proposition 300 will cause State of Arizona bureaucrats to consider the impacts of proposed regulations before they impose them on you. If the proposed regulation constitutes a regulatory taking then the property owner will be paid for the resulting loss of value. *It's just that simple.*

The argument against Proposition 300:

Some neighborhood, historical and environmental groups which are against the passage of Proposition 300 claim that with the passage of Proposition 300 that pollution would be unregulated, health and safety laws would be undone, neighborhoods would go into decline, the State would be bankrupted, that day care centers would be without regulation and that nothing of any historical value could ever be protected.

Before my career and my community activity, I am the father of three small children and a husband. I've carefully read the oppositions opinions in regard to Proposition 300 so as to make sure that I hadn't missed something, to insure that my families environment was still going to be protected and to assure myself that I was on the right side of what has become a divisive issue. After thorough review of the oppositions arguments, I have yet to find one that is close to being accurate.

What Proposition 300 does:

- Mandates Government to fulfill its constitutional obligations.
- Causes the State to research effects of proposed regulations BEFORE adoption.
- Reduces State liability by preventing uncompensated regulatory takings.
- Provides for emergency intervention if public health or safety are at risk.
- Effects **only** new rules and regulations at the State level.

What Proposition 300 doesn't do:

- Does NOT create a new State bureaucracy.
- Does NOT increase or create any taxes.
- Does NOT modify or rollback existing environmental regulations.
- Does NOT allow the dumping of toxic wastes.
- Does NOT effect any Local or Federal regulation or laws now or in the future.
- Does NOT effect existing Health or Safety laws in any manner.

Our Government too often regulates away uses because it is both politically and financially expedient. If Government feels that an individuals property is worth controlling through regulating it's use, then Government should be prepared to shoulder the appropriate burden. For too long the cost of the "public good" has been born by the individual property owner.

When you hear the shrill cry that the sky will fall if we approve Proposition 300; don't believe it. History has shown time and time again that the rights of property owners, if protected, actually enhance our environment. William K. Reilly, previous Director of the U. S. Environmental Protection Agency recently said, "*A strong system of private property rights is fully compatible with the long-term health of our environment. This is dramatically illustrated by the environmental degradation that has occurred in Eastern Europe and in other nations that are without a strong system of private property rights.*"

The passage of Proposition 300 merely puts into practice the concepts embodied in both our State and National Constitutions. Proposition 300 asks our State Government to do three simple things: 1.) Plan ahead, 2.) Be fair, and 3.) Balance the Budget. Its time for our State to think before it acts.

Vote YES on Proposition 300!

Thank you.

Sincerely,

William Arnold
Chairman
Southern Arizona Work Group
Arizonans For Private Property Rights

Biographical Information

William Arnold is an Associate Broker with Genesis Real Estate and Development, Inc. and has been in the brokerage field since 1978 specializing in land use and related issues. Mr. Arnold is an expert witness for the Pima County Attorneys Office in regard to Condemnation, has served on the Board of Adjustment and the Board of Health for Pima County District #4 and is a Past President of the Tucson Association of REALTORS®.