

**MOORPARK CITY COUNCIL
AGENDA REPORT**

To: Honorable City Council

From: Hugh Riley, Assistant City Manager 

Date: January 2, 2008 (City Council Meeting of 1/16/2008)

Subject: Status of California Property Owners and Farmland Protection Act and the Homeowners Protection Act Initiatives for June 2008 Ballot

BACKGROUND AND DISCUSSION

On November 20, 2007, Californians for Property Rights Protection (The Howard Jarvis Taxpayers Association, The California Farm Bureau Federation and various property owner groups) announced that they are submitting more than one million signatures to qualify the California Property Owners and Farmland Protection Act for the June 2008 ballot. This eminent domain reform measure is aimed to stop government agencies from taking homes, family farms, small business, and places of worship and giving the land to other private interests.

A new, independent legal analysis by Shute, Mihaly & Weinberger LLP, one of California's leading environmental law firms, has warned that the California Property Owners and Farmland Protection Act (CPOFPA) could hinder the implementation of AB 32, California's landmark law to reduce greenhouse gas emissions. The measure would also roll back rent control protections and have a devastating impact on other laws and regulations intended to protect the environment. The laws and regulations that the analysis states could be impaired or stopped under this measure include:

- AB 32 implementation regulations
- California Environmental Quality Act mitigations
- Water supply and water quality protections
- Urban limit lines and other growth control measures
- Protections of endangered species and their habitats
- Protection of coastal areas, farmland, and rangeland, as well as cultural and historic sites
- "Smart growth" regulations
- Ordinary zoning regulations

The report contradicts claims by the landlords sponsoring CPOFPA that their initiative has no "regulatory takings" impacts or impacts on the environment. This new legal analysis proves otherwise. Specifically, the analysis points out:

"The initiative prohibits regulations affecting the use of real property that are enacted 'in order to transfer an economic benefit to one or more private persons at the expense of the property owner.' Put simply, nearly all regulation provides an economic benefit to some private person. Accordingly, although the initiative is ambiguous in several significant areas, a court could interpret it to restrict a host of environmental and land use regulations that would be plainly legitimate under existing law."

For example a change in zoning by the City from M-1 to M-2 could be considered by the land owner as an attempt to restrict his/her "Private Use" of land if even one previously allowed land use would thus be restricted. A court could hold for that owner because of the ambiguity in CPOFPA.

Independently commissioned by the California League of Conservation Voters Education Fund, a copy of the complete legal analysis can be downloaded at www.clcveducationfund.org.

In a counter effort, a broad coalition of homeowners, labor, business, local government groups, seniors and environmentalists are gathering signatures on their personal time to qualify the Homeowners Protection Act for the June 2008 ballot. The Homeowners Protection Act will prohibit state and local governments from using eminent domain to take a home to transfer it to a private developer, and does not apply to water or other public works projects. As of November 29, 2007, the initiative sponsor has collected 1.1 million signatures and believes it will qualify for the June 2008 ballot.

Currently, both initiatives are pending signature verification by the Secretary of State. In order to qualify for the June 2008 ballot, each petition must include a total of 694,354 valid signatures by registered California voters. Final validation of both initiatives is expected on or about January 24, 2008

FISCAL IMPACT - Unknown

STAFF RECOMMENDATION

Receive and file the report.