




# County of Los Angeles CHIEF EXECUTIVE OFFICE

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WILLIAM T FUJIOKA  
Chief Executive Officer

August 11, 2008

To: Supervisor Yvonne B. Burke, Chair  
Supervisor Gloria Molina  
Supervisor Zev Yaroslavsky  
Supervisor Don Knabe  
Supervisor Michael D. Antonovich  
From:   
William T Fujioka  
Chief Executive Officer

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## IMPACTS OF PROPOSITION 99 ON THE COUNTY OF LOS ANGELES

On June 10, 2008, on motion of Supervisor Antonovich, your Board directed the Chief Executive Officer (CEO) and County Counsel to research and report back on the impacts of voter-approved Proposition 99 on the County. On June 3, 2008, Proposition 99 passed by a margin of 62.1 percent "Yes" to 37.9 percent "No." A related initiative, Proposition 98, failed by a margin of 38.5 percent "Yes" to 61.5 percent "No." Your Board took no position on either Proposition. This analysis, prepared in conjunction with County Counsel, will show that Proposition 99 will have little or no impact on County departments or redevelopment agencies.

### **Background: Kelo and Proposition 98**

Proposition 99 was placed on the ballot as a competing measure to Proposition 98 by associations representing cities, redevelopment agencies, counties, and renters. Proposition 98, which was backed by property rights groups, landlords, and The Howard Jarvis Taxpayers Association, would have changed the State Constitution to: 1) constrain State and local government agencies' authority to use eminent domain; and 2) phase out rent control. The measure also could have impacted public agencies ability to implement other programs and laws, such as mandatory inclusionary housing programs, certain environmental programs, and tenant relocation benefits.

Proposition 98 would have prohibited the condemnation of all types of private property (single-family homes, small businesses, apartment buildings, farms, churches) if the purpose for the acquisition was to transfer the property to a private person or entity. The taking of private property would have been limited to public uses such as roads, parks, schools, and other public facilities to be owned by a public entity or regulated public utility. The measure was a direct response to public concerns raised following the controversial

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2005 U.S. Supreme Court decision in *Kelo v. City of New London*, which upheld the constitutionality of a Connecticut statute which authorized municipalities to condemn private property (in that case, a single-family home) for economic development unrelated to the elimination of blight.

Unlike Connecticut, California does not have a statute which authorizes a municipality to condemn private property for economic development unrelated to the elimination of blight. California does have a statute, the Community Redevelopment Law (CRL), which authorizes local governments to condemn private property for the purpose of redeveloping blighted areas.

The CRL authorizes a local government to use eminent domain to acquire property located in redevelopment project areas, i.e., areas determined to be blighted. Under the CRL, a property is subject to condemnation even if it is not itself blighted; so long as it is within a designated redevelopment project area. For some projects this designation may have been made decades ago.

Redevelopment agencies continue to propose new projects that push the limits of blight, and that seek to extend eminent domain authority in existing redevelopment project areas. The County recently prevailed at the trial court in the Glendora case on the basis that the City failed to adequately document blight. The counties of Orange and San Diego have also recently filed lawsuits relating to blight findings in new redevelopment project proposals. Current law also allows for extensions of existing redevelopment projects with a limited showing of blight.

### **Proposition 99**

Proposition 99 prohibits government agencies from using eminent domain to take an owner-occupied home and transfer or resell it to another private owner or developer. An owner-occupied home is defined as a single-family residence including a detached home, condominium, or townhouse, which is the owner's principal residence for at least one year. This prohibition would not apply if the government was taking the home to: protect public health and safety; prevent serious, repeated criminal activity; respond to an emergency; remedy environmental contamination that posed a threat to public health and safety; or use the property for public works, such as a toll road or airport operated by a private party.

Under current law and practice, the actual use of eminent domain by redevelopment agencies on single-family homes in California is almost non-existent, as project areas typically focus on business corridors. In addition, if a redevelopment plan includes the authority for the agency to acquire residential property by eminent domain, a Project Area Committee (PAC) must be formed. Agencies prefer to avoid PACs, if possible, as the CRL contains rather burdensome rules and regulations regarding noticing requirements, election of members, and the administration of PACs.

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According to testimony given by John Shirey, Executive Director of the California Redevelopment Association at the Redevelopment Reform Joint Interim Hearing of the Senate Local Government Committee on November 17, 2005: "About 40 percent of the 771 redevelopment agencies have no eminent domain powers, and 30 percent have self-imposed limits; most ban the use of eminent domain on residential property. The Association's survey shows that in the last five years, there were only three cases of redevelopment agencies using eminent domain against single-family dwellings; two of those involved clouded titles."

### **Impact on the County**

According to the County Departments of Public Works and Regional Planning, because Proposition 99 does not affect a public agency's authority to condemn property for facilities that it would own and use, such as schools, roads, parks, and other public facilities, it will not significantly change the County's current land acquisition practices.

As the County's redevelopment practitioner, the Community Development Commission (CDC) currently administers five redevelopment project areas. Eminent domain authority has expired in three of the projects (Willowbrook, Maravilla, and East Rancho Dominguez), and the Whiteside Redevelopment Project includes a prohibition on taking residences. The CDC retains the power of eminent domain with respect to a very small number of single-family homes in the West Altadena Redevelopment Project Area. Proposition 99 would prohibit the use of eminent domain to take any of these homes. It is important to note that eminent domain has never been used directly in the West Altadena Project, and is due to expire in 2010. Therefore, it is anticipated that Proposition 99 will have minimal impact on CDC's current redevelopment program.

If you have any questions regarding this matter, please contact me, or your staff may contact Robert Moran at (213) 974-1130.

WTF:LS  
DSP:RTM:os

c: Auditor-Controller  
County Counsel