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FEDERALIST SOCIETY CHAPTER

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EMINENT DOMAIN:

An Imminent Danger?

SYMPOSIUM

October 20, 2006

CHAPMAN
UNIVERSITY

School of Law

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Pacific Legal Foundation
Nossaman Guthner Knox & Elliot*



SYMPOSIUM



Eminent Domain: An Imminent Danger?

It is an interesting time for eminent domain. Lawmakers, local governments, property owners and rent-seekers are still testing the waters after Kelo. And with Proposition 90 on the California ballot in November, no one knows for sure what to make of the current takings culture.

Two panels will attempt to make some sense of it all. The first panel will provide a backdrop of the takings and regulatory landscape. Pacific Legal Foundation's Tim Sandefur provides the historical foundations and applications of takings doctrine, discussing the rationale and use of eminent domain as it has been used to build everything from national railroads to supermarkets.

Chapman Professor Lawrence Rosenthal, a former U.S. Attorney, provides a local government's perspective of how the City of Chicago used eminent domain to clean up gang-ridden slums where no other means were available. Paul Weiland will address the potential effects of Prop. 90 on environmental and land use law.

Finally, Rick Rayl will discuss how current practices will change if Prop 90 is adopted, which would rein in local governments' power by making them pay for property regulations. Paramount among the concerns about Prop. 90 should be whether it is consistent with the principles and history of government regulatory power, whether it will stifle our cities' ability to adequately respond to economic blight, and whether it will ruin legitimate attempts at ecological conservation.

Conversely, what can free-market proponents offer to address these concerns? Perhaps most importantly, what would be the effect if the courts were to strike down Prop 90? The second panel will feature these debates from practitioners' perspective.

Taking up the position in favor of Prop. 90 are: Assemblyman Ray Haynes and Professor Gideon Kanner. Against Prop. 90 are: Mr. Ken MacVey and Mr. Gary Patton. Between the two panels, Professor Eastman and John Murphy will present recent case studies, including the Filipino Baptist Fellowship's successful opposition to the City of Long Beach.

The event will conclude with a light wine reception.



SCHEDULE OF EVENTS



1:00 p.m.-2:30 p.m.

Timothy M. Sandefur, Pacific Legal Foundation: *History of Eminent Domain*

Professor Lawrence Rosenthal, Chapman University School of Law: *City's Perspective*

Paul Weiland: *Environmental Implications of Eminent Domain and Prop. 90*

Rick E. Rayl, Nossaman Guthner Knox Elliott: *California Eminent Domain and Prop. 90*

Moderated by Harold Johnson, Pacific Legal Foundation

2:45 p.m.-3:15 p.m.

Professor John C. Eastman, Chapman University School of Law, and **John Murphy**, Nossaman Guthner Knox & Elliot: *Recent Case Studies*

3:30 p.m.-5:00 p.m.

Practitioners' Debate on Prop. 90

Yes on 90: **Professor Gideon Kanner**, Loyola Law School

Honorable Ray Haynes

No on 90: **Ken MacVey**

Gary Patton, PCL Foundation

Moderated by M. David Stirling, Pacific Legal Foundation

5:00 p.m.- 7:00 p.m.

Cheese and Wine Reception



REGISTRATION INFORMATION



Name _____

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Cost: \$15 for 3 CLE credit, \$10 for Federalist Society's active members. Please RSVP to chapmanfederalist@gmail.com

MAKE CHECKS PAYABLE TO:

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FEATURED PANELISTS



The **Hon. Ray Haynes**, R-Riverside, is a member of the California Assembly, representing the 66th District. An attorney and former state senator, he served as vice-chair of the Judiciary Committee in that body. Assemblyman Ray Haynes currently serves as the Vice Chair of the Assembly Human Services Committee, along with being a member of the Budget, Health, Natural Resources and Appropriations Committees.

Chapman Law **Prof. John C. Eastman** is Director of the Claremont Institute Center for Constitutional Jurisprudence. He clerked for Justice Clarence Thomas at the Supreme Court of the United States.

Harold Johnson is a property rights and First Amendment attorney at Pacific Legal Foundation, and also serves as the Foundation's communications director.

Gideon Kanner is professor of law emeritus at Loyola Law School and Of Counsel at Manatt, Phelps & Phillips, LLP.

Ken MacVey is a partner at Best Best & Krieger LLP and chair of its Eminent Domain Practice Group.

John Murphy of Nossaman Guthner Knox & Elliot currently serves as leader of the Eminent Domain Practice Group. He was the Practice Group Leader of the firm's Litigation Department in 2004.

Gary Patton is the Executive Director of the Planning and Conservation League and the PCL Foundation. He is a noted speaker on California environmental and land use policy.

Rick E. Rayl is a partner with Nossaman Guthner Knox & Elliott and litigates a broad range of complex civil litigation issues, including eminent domain. Mr. Rayl was Los Angeles Magazine's Southern California Super Lawyers Rising Star in Real Estate Litigation in 2005.

Chapman Law **Prof. Lawrence Rosenthal** concentrates on issues relating to urban policing and governmental legal liability. He clerked for Justice John Paul Stevens of the United States Supreme Court.

Timothy M. Sandefur is an attorney with the Pacific Legal Foundation and author of *Cornerstone of Liberty: Property Rights in 21st Century America*.

M. David Stirling is Vice President of Pacific Legal Foundation and a Visiting Fellow at Stanford University's Hoover Institution. He has also served as a Superior Court judge, a member of the California Assembly, and as chief deputy attorney general of California.

Paul Weiland is an environmental attorney with Nossaman Guthner Knox & Elliot who focuses on compliance counseling, permitting and litigation.



FEDERALIST SOCIETY



The Federalist Society for Law and Public Policy Studies is a group of conservatives and libertarians interested in the current state of legal order. It is founded on the principles that the state exists to preserve freedom, that the separation of governmental powers is central to our Constitution, and that it is emphatically the province and duty of the fiduciary to say what the law is, not what it should be. The Society seeks both to promote an awareness of these principles and to further their application through its activities.

This entails reordering priorities within the legal system to place a premium on individual liberty, traditional values, and the rule of law. It also requires restoring the recognition of the importance of these norms among lawyers, judges and law professors. In working to achieve these goals, the Society has created a conservative intellectual network that extends to all levels of legal community.



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