



POLICY STATEMENT PRIVATE PROPERTY RIGHTS

Background

The Fifth Amendment of the United States Constitution provides that “No person shall...be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.” The latter clause, commonly known as the “Takings Clause,” requires the government to compensate private property owners when, through the power of eminent domain, the government “takes” private property for “public use” without the owner’s consent.

While we generally hold the right to own property as inalienable, regulatory taking by governmental agencies occurs with moderate frequency. Overriding public interest may justify this form of governmental acquisition, but every occasion must be scrutinized because of the severe impact on the right of individuals to reasonably use or dispose of their private property.

Unconstitutional regulatory takings impermissibly limit the right of consumers and REALTORS® to acquire and use private property with the confidence and certainty that the value of their property will not be unduly diminished or jeopardized. Unconstitutional regulatory takings must be vigorously opposed.

PAR Position

Since its inception, a component of PAR’s mission is “the preservation of real property rights.” It is the inherent right of every individual to acquire and possess real property without fearing that their rights may be eliminated by governmental action. As a cornerstone of the real estate industry, PAR should oppose any actions that weaken an individual’s right to own and preserve private property.

PAR recognizes that all levels of government need to have and exercise the authority to regulate private property to protect the health, safety and welfare of its citizens. The United States Constitution limits this exercise of power to taking property for “public use” and paying the owner “just compensation.” Governmental authorities should not be permitted to overstep these limits, and unlawful regulatory takings should be met with dedicated opposition.

PAR acknowledges that governments strive to develop responsible growth planning that serves a public purpose by considering the divergent needs of transportation, housing, and agriculture, as well as evaluating commercial, industrial, and environmental concerns. PAR believes that by advocating sound land use practices, the value of private property will not be unreasonably diminished or jeopardized by governmental action at any level.

PAR supports any measures that provide property owners expeditious access to administrative and judicial avenues to oppose governmental takings at all levels.

*Approved by the PAR Board of Directors
September 2005*