

Re: Property rights nutjobs

Source: <http://sci.tech--archive.net/Archive/sci.econ/2005-04/msg00354.html>

- *From:* "Mark Monson" <m_monson@xxxxxxxx>
 - *Date:* Mon, 25 Apr 2005 10:07:18 -0400
-

<ruetheday@xxxxxxxx> wrote in message
news:1114308287.905146.56070@xx
>>These rights are violated any time an individual is deprived of
>>his property without compensation — when it is stolen, for
>>example, but also when it is subjected to governmental
>>regulation that reduces its value
>
> I wonder if this nitwit believes in the inverse – that when there is a
> positive externality that cause the value of the property in question
> to increase that the property owner must compensate those who caused it
> to come about. Somehow I'm guessing that the answer is no.
>
<http://www.alternet.org/story/21791/>

Givings: The Flip Side of Takings

By David Morris, AlterNet. Posted April 19, 2005.

If the public were compensated for the increase in land value that results from public actions, a number of public services, such as transit, could become self-financing.

Last November, by a resounding margin (61–39 percent) Oregon voters approved Measure 37. The ballot measure requires public entities to compensate property owners for any decline in the value of their property due to a public regulation.

The initiative's passage may have marked the sweetest victory to date for the 25-year-old "takings movement," a private property rights advocacy effort that seeks to "justly compensate" owners for any government action that reduced the value of their land. I hope it also marks the end of the defensive way we oppose such measures (e.g., arguing that compensating the victims of government action will cost us too much).

It is time we took the offense in the takings debate and launched a "givings movement." If the public must pay private property owners whenever a public action diminishes the value of their property, then property owners should compensate the public whenever public actions increase the value of the property.

Re: Property rights nutjobs

The fact of the matter is that the vast majority of public actions elevate land and property values. If the public were compensated for the increase in land value that results from public actions, a number of public services, such as transit, could become self-financing.

The takings movement gets its traction from 12 words in the Fifth Amendment to the U.S. Constitution: "... nor shall private property be taken for public use without just compensation." For almost 200 years after the Constitution was ratified, the courts interpreted those words to mean that compensation was due only if the government physically confiscated or occupied the property, or issued a regulation that stripped the property of virtually all its economic value.

For example, in 1978 the U.S. Supreme Court decided a case involving Penn Central, the owner of the Grand Central Station in mid-town Manhattan. Penn Central wanted to build a 50-story building above the station. The New York City Landmarks Commission rejected its application. The Supreme Court ruled that no taking had occurred because the property retained its economic use as a railroad and transit station.

In 1980, Ronald Reagan won the presidency and the takings clause quickly became one of the conservative movement's principal levers for restricting the public sector. University of Chicago law professor Richard Epstein's 1985 book, *Takings*, became the movement's bible. Epstein asserted that a compensable taking occurs even when there is only a minor and even hypothetical economic impact on the affected land. Moreover, he declared that the takings clause could and should be extended to hobble many government actions.

He boldly maintained that the clause renders "constitutionally infirm or suspect many of the heralded reforms and institutions of the 20th century: zoning, rent control, workers' compensation laws, transfer payments [and] progressive taxation."

In March 1988, Reagan adopted Epstein's thesis as federal policy when he signed Executive Order 12630: "(e)xecutive departments and agencies should review their actions carefully to prevent unnecessary takings ... "

In his memoir, Reagan administration Solicitor General Charles Fried recalls that era. "Attorney General Meese and his young advisers—many drawn from the ranks of the then fledgling Federalist Societies and often devotees of the extreme libertarian views of Chicago professor Richard Epstein—had a specific, aggressive, and it seemed to me, quite radical project in mind: to use the Takings Clause of the Fifth Amendment as a severe brake upon federal and state regulation of business and property."

By the mid 1990s, takings bills had been enacted in 14 states and had been debated in many others. In the 1990s the U.S. Supreme Court began to broaden the use of the takings clause to inhibit local land use regulations. We can expect equivalent initiatives to Measure 37 to gain ballot status in other states.

We need a "givings" initiative. We need to make the concept of "givings" as well known as "takings." In most people's minds, giving signifies something one does voluntarily while taking is done to one against one's will. But in the real world of land values, both givings and takings are involuntary.

Re: Property rights nutjobs

Real estate and economic developer Donovan Rypkema of Place Economics has explained that real estate is a unique form of property, for two reasons. First, the way one uses one's land affects the value of surrounding land. Second, the primary source of value in real estate is largely external to the property lines.

As to the first point, if I owned two residential lots and built a 20-story apartment building, it would reduce the value of my neighbors' lands. Installing a car repair shop on my property would cause an even greater reduction. Which is why local governments require me to ask for a variance or change in zoning before undertaking such constructions.

As to the second point, the old real estate cliché, "The three most important things in real estate are location, location, location," is entirely valid. "Public decisions affect the value of real estate in both directions," notes Rypkema, "it is one of the risks and potential rewards of ownership."

Land values are largely determined by actions taken outside the plot's boundaries. A nearby good public school raises values. So does a park. So does access to transportation.

Gaining a zoning change is the pot of gold at the end of any developer's rainbow. A change in zoning can increase the value of a piece of land tenfold. That is giving on a majestic scale. Why not tax the publicly generated increased value of their land 100 percent? That would be consistent with giving just compensation to property owners who lose out when government acts.

More than a century ago economist Henry George led a powerful movement based on the idea that by taxing the increase in the value of land resulting from public actions, that most other taxes could be eliminated.

Given the much higher level of public services and public demands these days, a land tax cannot eliminate the need for all other taxes. But it might allow us to finance some desperately needed services.

Consider the transportation sector. When government builds a train or bus stop, it is increasing the value of land within walking distance of that access point. Nobel laureate in economics William Vickrey has proposed that government finance transportation improvements by taxing this increased value of land near the improvements.

The concept has been successfully applied in Hong Kong. Its rail transit system receives no subsidy. All costs, including interest on bond indebtedness, are paid from land rents derived from development in station areas. A study of the added land values resulting from the development of Washington, D.C.'s metro found that it exceeded the entire cost of building the metro.

Indeed, in the past, private developers often built transit systems to urban fringe neighborhoods and recouped the capital costs from the sales of developed sites.

What would a givings ballot initiative look like? Italics mark the changes from the

Re: Property rights nutjobs

original wording in the first two paragraphs of Measure 37.

"(1) If a public entity enacts or enforces a new land use regulation or enforces a land use regulation enacted prior to the effective date of this amendment that expands the use of private real property or any interest therein and has the effect of increasing the fair market value of the property, or any interest therein, then the public entity shall be paid the increased value.

(2) The amount owed the public entity shall be equal to the increase in the fair market value of the affected property interest resulting from enactment or enforcement of the land use regulation as of the date the public entity makes written demand for compensation under this act."

We could rely on none other than Adam Smith as a support witness for a givings initiative. "As soon as the land of any country has all become private property," Smith observed, "the landlords, like all others, love to reap where they never sowed."

David Morris is co-founder and vice president of the Institute for Local Self Reliance in Minneapolis, Minn. and director of its New Rules project.

- ***Follow-Ups:***

- ◆ ***Re: Property rights nutjobs***

- ◇ *From: sinister*

- ***References:***

- ◆ ***Property rights nutjobs***

- ◇ *From: sinister*

- ◆ ***Re: Property rights nutjobs***

- ◇ *From: ruetheday@xxxxxxxxxxx*

- Prev by Date: ***Re: Best response to landowner tax complaints?***

- Next by Date: ***Re: Best response to landowner tax complaints?***

- Previous by thread: ***Re: Property rights nutjobs***

- Next by thread: ***Re: Property rights nutjobs***

- Index(es):

- ◆ ***Date***

- ◆ ***Thread***