Taking the Public Trust

How a New York Real Estate Developer Is Threatening State Governments in the West

November 2006

Acknowledgments

The primary author of *Taking the Public Trust: How a New York Real Estate Developer Is Threatening State Governments in the West* was Senior Researcher John O'Donnell. Congress Watch Director Laura MacCleery guided and edited the project. Research Director Taylor Lincoln also served as an editor.

About Public Citizen

Public Citizen is a 100,000 member non-profit organization based in Washington, D.C. We represent consumer interests through lobbying, litigation, research and public education. Founded in 1971, Public Citizen fights for consumer rights in the marketplace, safe and affordable health care, campaign finance reform, fair trade, clean and safe energy sources, and corporate and government accountability. Public Citizen has five divisions and is active in every public forum: Congress, the courts, governmental agencies and the media. Congress Watch is one of the five divisions.

Public Citizen's Congress Watch
215 Pennsylvania Ave. S.E.
Washington, D.C. 20003
P: 202-546-4996
F: 202-547-7392
http://www.citizen.org

Introduction

A wealthy New York developer holds leadership positions in groups that have funneled more than $8.5 million into statewide campaigns in an attempt to enact ballot initiatives in eight states that would eviscerate environmental protections while threatening to bankrupt state treasuries. New York state's Division of Corporations has more than a half-dozen companies that are connected to Rich and registered at the same New York City address he uses.[1] In Securities and Exchange Commission filings, Rich describes himself as "involved in general securities management, venture capital, real estate and business consulting."[2]

These initiatives, falsely advertised as necessary to prevent state governments from intruding on property owners, are actually intended to serve as cash cows for developers. If approved, the initiatives would leave state governments with an unacceptable choice between rolling back decades of environmental protection rules – such as those to combat sprawl, protect wetlands and preserve clean air and water – or paying bounties to developers as "compensation" for being prevented from using their land however they please.

The initiatives, sometimes called regulatory takings measures, will be on ballots in four states on election day: Arizona, California, Idaho and Washington. Similar initiatives were bounced – in full or in part – from ballots in Oklahoma and Nevada because courts there found they violated the states' prohibitions on multiple-issue ballot initiatives and in Montana, where a court found that proponents engaged in fraud in their petition drive to win a spot on the ballot. The Montana judge found that there was "a pervasive pattern and practice of deceptive, fraudulent, and procedurally defective practices employed in this case by the migrant out-of-state signature gatherers."[3]

The man who appears to be pulling the strings of these campaigns is Howie Rich, a longtime activist for causes to gut governments' regulatory authorities and restrict the ability to collect taxes. The irony of Rich's current gambit is that his initiatives, if successful, could end up costing state and local treasuries billions of dollars, most assuredly resulting in a need for higher taxes to continue to fund critical programs.

The statewide ballot campaigns rely on infusions of money from groups in which Rich holds leadership positions or is otherwise connected, including: Americans for Limited Government, a 501(c)(4) group that Rich co-founded;[4] the Fund for Democracy, a shadowy and apparently unincorporated organization that Rich has described as a "trust," which is located at Rich's New York business address;[5] the Club for Growth, a Section 527 group for which Rich serves as a director;[6] the Club for Growth State Action, a Glenview, Ill.-based 501(c)(4) group of which Rich is president;[7] Colorado at its Best, a Glenview-Ill., 501(c)(4) group for which Rich serves as a director;[8] U.S. Term Limits, a Glenview, Ill., 501(c)(4) group of which Rich is president;[9] and Montanans in Action, a group that was shown in a court case to be connected to Americans for Limited Government.[10]

The campaign also sought to deceive and confuse voters by including "eminent domain" language in each of the measures, prohibiting states from condemning privately held land for use in economic development. This language responds to a controversial 2005 Supreme Court

decision called "Kelo" that upheld the right of a city in Connecticut to condemn property to make room for commercial and residential development. In truth, the eminent domain clauses are separate issues that were included to scare voters. One of the four states where Rich put an initiative on the ballot, Idaho, already has a law prohibiting it from using eminent domain to obtain property for economic development purposes, as does Missouri, where he failed to get an initiative on the ballot.[11] Another of the states where Rich's provision is on the ballot, Washington has provisions in its constitution that prevent results "similar to Kelo," according to the Washington state chapter of the American Planning Association.[12]

Status of the Measures

Rich's ballot initiatives are on the ballot in full in four states. These initiatives would apply to all future land use and other protections, which means that a property owner in the state could be able to argue that the value of a property decreased due to an act of government and to demand the law be waived or compensation paid. Any new land use or other environmental safeguards instituted by the states would be highly ineffectual because they are in practical terms, unenforceable against land owners. At least one states' initiatives also has retroactive provisions.

The states considering such initiatives on November 7 are:

- **Arizona** (Proposition 207);
- **California** (Proposition 90);
- **Idaho** (Proposition 2); and
- **Washington** (Initiative 933).

The state initiatives are patterned after an Oregon ballot initiative that passed in 2004. But there are differences. Unlike in Oregon, where state and local officials have the option to settle claims either with cash payments or waivers of land use controls, the California and Idaho initiatives give the state government no choice. Those two states must settle claim by paying property owners for any loss of value resulting from new laws or regulations.

In addition to the four states listed above, Rich's ballot initiative will be on the ballot, in part, in Nevada, where Rich's Americans for Limited Government spent nearly $170,000, according to campaign finance reports. But voters there will only decide on the eminent domain issue, which would restrict the state's ability to condemn property but would not affect land use rules. The text of the initiative originally included a regulatory takings provision, but the state Supreme Court stripped that out of the measure, finding that the takings provision was a separate subject from eminent domain. For that reason, the initiative violated a state law limiting ballot initiatives to one subject.[13] Even if the eminent domain proposal passes, it must appear again on the 2008 ballot – and win again – to take effect.[14]

Rich's initiatives were rejected from ballots in at least three states:

- **Missouri:** Secretary of State Robin Carnahan dealt Rich and his allies a stinging blow. She refused to accept 400,000 signatures they submitted to get initiatives placed on the ballot to limit the use of eminent domain and require compensation to property owners for restrictions, and another to strictly limit state spending. The secretary ruled that proponents violated a state law that requires signatures to be segregated by county and submitted on sequentially numbered pages.[15] That left Rich with nothing to show for the $2.3 million he poured into the Missouri campaign.[16]

- **Montana:** A District Court judge struck Rich's eminent domain and regulatory takings initiative and two other Rich-backed initiatives from the ballot after finding that widespread fraud occurred in collection of signatures.[17] The judge's decision said signature collection was characterized by "a pervasive pattern and practice of deceptive, fraudulent, and procedurally defective practices employed in this case by the migrant out of state signature gatherers."[18] The judge found that Montanans in Action provided nearly $675,000 to proponents to finance signature collection and that 94 percent of the money went to people brought in from other states to gather signatures.[19] The organization refused to identify the source of its funds. In addition to the money it spent in Montana, Montanans in Action contributed $600,000 to proponents of the California initiative.[20] The Montana Supreme Court in a unanimous ruling on Oct. 26 of this year upheld the lower court's decision.[21]

- **Oklahoma:** As in Nevada, the Oklahoma Supreme Court found that a Rich initiative to change state law contained two separate issues, violating a requirement that permits only one subject in each ballot initiative. Unlike the Nevada Court, which allowed a Rich initiative to survive in part, the Oklahoma justices struck the entire measure from the ballot.[22]

Rich Groups Ran the Ballot Initiative Campaigns

State level campaign finance disclosure reports show that campaigns in favor of the ballot initiatives are primarily funded by groups in which Rich holds leadership positions or is otherwise connected. They include Americans for Limited Government;[23] the Fund for Democracy;[24] the Club for Growth;[25] the Club for Growth State Action;[26] Colorado at its Best;[27] U.S. Term Limits;[28] and Montanans in Action, a group connected to Americans for Limited Government.[29]

The forms also show that they are closely linked financially, often lending money to one another. For example, the 2004 Form 990 of the Americans for Limited Government Foundation, a 501(c)(3), shows that it borrowed money from Americans for Limited Government Inc., the group's 501(c)(4) as well as from Club for Growth State Action, U.S. Term Limits Inc., and Legislative Education Action Drive, 501(c)(4) of which Rich is a director.

Legislative Education Action Drive told the IRS in its 990 filing for 2004 that four related organizations owed it a total of $545,271. They are Americans for Limited Government Foundation, Americans for Limited Government Inc., U.S. Term Limits and LEAD Foundation, a related organization that does not have a 990 posted on Guidestar.[30]

Additionally, the filings show that Rich's groups have shirked their legal responsibility to disclose, in annual filings with the Internal Revenue Service, grants they have made. The have instead opted to identify lump sum totals and state that the money went to "various" recipients.[31]

Thus far in 2006, groups connected to Rich provided, nearly $8.6 million to campaigns in eight states to get the initiatives onto ballots and promote them.[32] They also spent an estimated $3 million more on initiatives to restrict state spending and unseat judges.[33] Rich and his front groups appear to have provided most of the money for the property initiative campaigns in each of the states, in some cases providing virtually all of their money reported as income by proponents of the measures. [See Figure 1]

Figure 1: Money Trail Leads Back to New York's Howie Rich: Rich Organizations' Payments to Ballot Initiative Backers As of Nov. 2, 2006

State	Organization Providing Funding to State Ballot Initiative Campaign	Amount	State Totals
Arizona	Americans for Limited Government	$1,117,000	
Arizona	The Fund for Democracy	$34,500	
Arizona	The Club for Growth	$100,000	
Total			**$1,251,500**
California	Colorado at its Best	$50,000	
California	Club for Growth State Action	$220,000	
California	Montanans In Action	$600,000	
California	The Fund for Democracy	$1,500,000	
California	Americans for Limited Government	$1,000,000	
Total			**$3,370,000**
Idaho	America At Its Best	$575,000	
Idaho	The Fund For Democracy	$237,000	
Total			**$812,000**
Missouri	America At Its Best	$640,000	
Missouri	The Fund for Democracy	$1,658,000	
Missouri	U.S. Term Limits	$50,000	
Total	**I**		**$2,348,000**
Montana*	Montanans in Action**	$179,100	**$179,100**
Nevada	Americans for Limited Government	$168,778	**$168,778**
Oklahoma	Americans for Limited Government	$105,000	**$105,000**
Washington	Americans for Limited Government	$360,000	**$360,000**
Grand Total		**$8,594,378**	**$8,594,378**

Source: Figures gleaned from Public Citizen examination of campaign finance reports with the exception of Montana.

* Campaign finance reports filed in Montana show that Montanans in Action contributed $179,100 to an organization called Vote I-154 (Protect Our Homes Montana). At the trial that resulted in removal of the initiative from the Montana ballot, the treasurer of Montanans in Action said the organization got its money from "out of state national organizations." He would not identify the organizations and the judge did not order him to do so because it was not relevant to the case. Jonathan R. Motl, an attorney in Helena Montana,, filed a complaint with the state Commissioner of Political Practices that includes documents showing links between Montanans in Action and Americans for Limited Government. Included in the complaint are Americans for Limited Government's claims that the Montana effort was its own campaign and a communication from Montanans in Action to the organization regarding a wire transfer of funds.[34]

Why Rich Is Wrong: His Measures Threaten to Bust State Budgets and Harm the Environment

If you like suburban sprawl or wish for high-rises in your neighborhood, you will love what Howie Rich is bringing to the West. The initiatives that made it onto ballots in four states strike an extortionists' bargain: forcing states to choose between honoring hard-won zoning or environmental safeguards (which would carry an enormous price tag), and nearly unfettered development.

While there are differences in the initiatives' text, the themes are clear as the sky over the Grand Canyon. If enacted, the measures would require local and state governments to choose between compensating landowners for any reduction in property values caused by state or local actions that affect the property or waiving the applicable laws or regulations.

Howie Rich may favor less government and lower taxes. But he should be careful about what he asks for. If his efforts result in victory at the polls, it will create a monster that assuredly will drive up the cost and size of government.

Those who would deprive governments of the chance to implement controls on land use might not understand – or care – about the long-term effects of their actions.

But others do. Nancy Stricklin, attorney for the Association of Idaho Cities, succinctly summed up the case for land use regulation:

"It is important to remember that land use regulations are adopted for the purpose of enhancing the quality of life for all citizens and fostering a peaceful co-existence between neighbors," Stricklin wrote in an analysis of that state's Proposition 2. "Land use regulations balance the interests of all property owners. Without land use regulations, the balance is lost. Requiring the 'government' to pay to provide that balance loses sight of who will really pay those claims and attorney fees. It will be the taxpayers."[35]

So, what would it mean if takings ballot initiatives pass?

In many ways, governments will be virtually paralyzed at the local and state level, able to adopt land use controls and regulations only at the risk of inviting a big hit on the state treasuries. Control of suburban and exurban sprawl and preservation of farmland and open spaces will be virtually impossible, and enforcement of new and needed laws crippled. What state or county will change zoning or impose other restrictions to limit subdivision development while facing the strong possibility that owners of multi-hundred acre properties will demand enormous payments for the possible loss of value?

Limiting commercial or industrial development near residential areas would invite claims for compensation from the affected businesses or from the owners of land where business wanted to build.

Clean air and clean water initiatives would be curtailed as states fear having to compensate business affected by the efforts. Wetlands protection, too, would suffer when governments balk because they fear the financial consequences of limiting development.

Local governments would be wary of adopting ordinances limiting noise knowing that night clubs and bars, for example, might file claims for compensation if rowdy customers violate the ordinances.

Yet, even if governments forego such regulation, they will not be spared from added expense. When the failure to control growth produces sprawl, governments will find themselves burdened with the cost of infrastructure to support unbridled development.

Washington state's Initiative 933 will cost taxpayers $7.8 billion in the "near term" to pay claims, a study by the University of Washington College of Architecture and Urban Planning forecast.[36] While that state's initiative is billed as a "pay or waive" measure, the study said that three key laws – the state's Growth Management Act, the State Environmental Policy Act and the Shoreline Management Act – do not allow waivers. Because compensation is the only option under these laws, the study predicts "a paralysis between 'pay or waive'" in the event that tax revenues are insufficient to cover costs.[37]

A separate study, by Washington's Office of Financial Management, reached similar findings, predicting that the initiative would cost state and local governments between $7.3 billion and $9 billion over six years.[38]

In California, a study predicted the measure would cost taxpayers billions of dollars.[39] Assuredly, part of that would be caused by a provision that changes the criteria government uses to pay for property acquired through eminent domain. Currently, owners are paid the fair market value of their property. Under certain circumstances, Proposition 90 mandates that the price be based on the use to which government will put the property, which in some cases will be higher than the fair market value.

The upshot: Burdened with the cost of paying "takings" claims and having to add staff to cope with an onslaught of claims, state and local governments will be saddled with budget crunches that leave them with less money for services such as police and fire protection, refuse collection, health clinics and services for the poor. Their only alternative? Raise taxes.

Seeing this bleak fiscal future if these initiatives pass, groups as diverse as police associations, environmentalists, anti-tax groups and chambers of commerce are opposing them. They believe that protection of both state environmental rules and state coffers is required, and that Rich's initiatives would severely damage these important goals.

Rich's Campaign Exploits a Controversial Supreme Court Ruling to Scare Voters

A key legal development gave Rich and his allies an opening to conduct this stealth campaign against taxpayers and the environment. In June 2005, the Supreme Court issued a decision in *Susette Kelo. et. al. v. City of New London, Connecticut, et. al. June 23, 2005.*

By a 5-4 majority, the Court affirmed the right of government to use its eminent domain powers to acquire property for economic development purposes, even for use by private developers. Susette Kelo and eight other owners of property in New London, Conn., refused to sell their property to the government and then saw their houses condemned. The properties were part of a 90-acre tract where the city planned to build office buildings, upscale housing, a marina and other facilities and was near a new $300 million pharmaceutical company research center.[40]

While most of the owners agreed to sell, the nine holdouts went to court in 2000. The Supreme Court's decision held that economic development was a "public use" for which property could be claimed by the government.[41] The decision triggered a nationwide backlash that prompted 26 states to enact legislation restricting the use of eminent domain.[42]

In April 2006, the far-right Reason Foundation, which promotes libertarian principles and ideas, published a playbook promoting ballot initiatives clothed as a response to the *Kelo* decision, but that, it planned, would do much more to roll back environmental and land use rules than needed to remedy the harmful effects of the opinion.

In a 64-page report, the foundation began promoting a strategy in which a "*Kelo*-plus" ballot initiative would offer cover for more insidious "takings" measures. A "*Kelo*-plus initiative," the report said, "offers a single vehicle to address both physical and regulatory takings at the same time, effectively 'killing two birds with one stone.'" It also "capitalizes on the tremendous public and political momentum generated in the aftermath of the *Kelo* ruling," the report said.[43]

As planned, the ballot measures in Arizona, California, Idaho and Washington are not limited to reversing the harmful impacts of *Kelo*. They are instead "*Kelo*-plus," and would impose far-reaching changes in state and local laws, undermining the safeguards that citizens have fought for years to preserve, values essential to a high quality of life.

Kelo is deployed as camouflage for the takings provisions even where it is not needed. Earlier this year, the Idaho legislature enacted a law banning the use of eminent domain to acquire property for transfer to another private owner. The law took effect on July 1.[44] Now, almost the exact wording is in Proposition 2, which will be on the ballot November 7. Moreover, in Washington state, the initiative mentions eminent domain in its preamble but includes no substantive language to address the topic.[45] The Washington state chapter of the American Planning Association, noting that "Washington's constitution prohibits an outcome similar to *Kelo,"* dismissed the mention of eminent domain in the preamble as "no more than a marketing ploy – a phantom solution to a phantom problem."[46]

Disastrous 2004 Oregon Ballot Initiative Shows Harm

In 2004, Oregon voters approved a ballot initiative, Measure 37, requiring the state to compensate owners when the value of their property is reduced by a land use regulation adopted after the owner acquired the property.

The measure leaves state officials with an unacceptable choice. When challenged on a regulation that took effect after owners bought the property, upon application by the land owner, regulators must either financially compensate owners regarding the changes or waive totally the applicable land use safeguards.

Oregon's experience with Measure 37 is akin to a gold rush. Just two years of experience in Oregon provide vivid warnings about the catastrophe other states face if they pass similar measures:

- Property owners have filed more than 2,700 claims seeking more than $6.1 billion in compensation, according to the state Department of Land Conservation and Development Web site.[47] Many of the claims were approved, meaning that owners of those properties may now ignore any land use restrictions adopted since they acquired their properties.

- Other claims were filed against local governments such as cities and counties. Yet the state and county claims are not always consistent. In some cases, the same claim was filed with the state and with a city or county, and the owners asked for a different amount in each claim, according to Sheila A. Martin, director of the Institute of Portland Metropolitan Studies, and author of a report issued in January 2006 that studied the impact of Measure 37.[48]

- In practice, few, if any, property owners have been paid for their alleged loss. Instead, where the state or local authorities grant a claim, zoning and/or land use regulations have been waived, allowing development to occur.[49]

"Measure 37 has disabled the tools used over the past four decades to prevent sprawl and preserve agricultural and forest land in Oregon," Martin's report concluded.[50]

Among other things, according to the report, Oregon's land use regulations helped to preserve much of the state's farmland, with only one percent of the land being converted to other uses between 1982 and 1997.[51] The passage of Measure 37 put farmland preservation in jeopardy, the study said.[52]

Property owners do not have to do much to cash in. "The only thing you have to prove is that you owned the property prior to the regulations being in effect," Martin told Public Citizen.[53] Owners are not required to document the amount of their claims, so free passes from local laws are easy to obtain by inflating the alleged size of the "damage."

"Important questions have been raised regarding whether these claims are realistic, given that many are based on the scarcity value created by the land use system that has supposedly depleted their use value," Martin wrote, citing a December 2004 study by Oregon State University economist Andrew J. Plantinga.[54]

The Oregon measure creates a situation where proximate, even adjoining properties can be treated differently based solely on the date on which the owner acquired the land. These differences can be substantial. A small area of land just outside Portland, Ore., that Martin discussed in her report, offers a prime example. It is the Stafford Triangle, a 1,200-acre "rural residential community" that was spared dense development because it is just beyond the city's Urban Growth Boundary. Still, the area is already subject to intense development pressure.[55]

Measure 37 is forcing the state and county to allow scattershot development in the triangle. Although farming is not intense there, much of the land is zoned Rural Residential Farm/Forest. This allows minimum lot sizes of five acres. Some of the land is zoned Exclusive Farm Use, which requires an 80-acre lot.[56]

As a result of Measure 37, the owners of a 52-acre parcel got state and county approval for a 26-house subdivision. The reason: They bought the property in 1952, before the advent of land use planning.[57]

The approval of a 26-lot subdivision increases the value of this tract. In a desirable area subject to development pressures, that would be the case even if such development were permitted in the entire triangle. However, many of the owners will not be allowed to develop – at least to the same extent – because they acquired their property after the land use regulations were in place.

Thus, new subdivisions will be scarcer than they might otherwise be. And, the law of supply and demand says that the more limited the supply in a demand situation, the higher the price.

So, ironically, the owners of the 52-acre subdivision will benefit financially from the very land use regulations that they overturned when they obtained a Measure 37 waiver.

In another case, the owners of two contiguous small hillside lots in Portland, totaling four-tenths of an acre in a neighborhood that slopes toward the Willamette River claimed that down zoning in 2004 cost them $500,000. The zoning reduced the number of units they could build on the 19,400 square foot lot from 75 to 19.

After they filed their claim, Portland granted a waiver to allow a 75-unit building on the site. But the "building would be out of character with the rest of the neighborhood and may interfere with the views of some neighbors," said the Institute of Portland Metropolitan Studies report.[58]

Endnotes

[1] Public Citizen examination of corporation records on file with the New York State Department of State, Division of Corporations.
[2] Peter Schrag, "Rich's Stealth Campaign," The Nation, Nov. 6, 2006.
[3] District Judge Dirk M. Sandefur, Montanans for Justice et al v. State of Montana et all, Montana Eight Judicial District court, Cascade County, Sept. 13, 2006.
[4] Laura Oppenheimer, "Anti-Spending Crusaders Gain Steam for Fall Votes," *Portland Oregonian*, August 21, 2006. See also information on Americans for Limited Government Foundation at www.guidstar.org. and Americans for Limited Government Web site at www.getliberty.org/board.php.
[5] Patrick Hoge, "Mogul's Network Bankrolls Prop. 90," *San Francisco Chronicle*, Oct. 5, 2006. Also see Arizona Secretary of State's list of contributors to ballot measures. Fund for Democracy's address is listed as 73 Spring St., New York, N.Y., 10012, where Howie Rich's businesses are located.
[6] See Club for Growth Web site at http://www.clubforgrowth.org/record.php and http://www.clubforgrowth.org/about.php.
[7] Club for Growth State Action, Form 990, 2004.
[8] Colorado at its Best, Form 990, 2004.
[9] U.S. Term Limits, Form 990, 2004.
[10] District Judge Dirk M. Sandefur, Montanans for Justice et. al. v. State of Montana et. al., Montana Eight Judicial District Court, Cascade County, Sept. 13, 2006. See also, Jonathan R. Motl complaint of July 17, 2006 regarding Montanans in Action addressed to Gordon Higgins, commissioner of political practices.
[11] "Eminent Domain Post-Kelo: 2005-2006 State Legislation," National Conference of State Legislature's Web Site, available at http://www.ncsl.org/programs/natres/annualmtgupdate06.htm
[12] Analysis of Proposed Initiative 933 & its Consequences for Washington," Washington chapter of the American Planning Association, available at http://www.washington-apa.org/pdf/Final_Draft_of_APA_I_933_Analysis.pdf
[13] "Nevadans for the Protection of Property Rights, et. al. v. Dean Heller in his capacity as Secretary of State," 122 Nev., Advance Opinion 79, Nevada Supreme Court decision, Sept. 8, 2006, available at http://www.nvsupremecourt.us/documents/advOpinions/122NevAdvOpNo79.pdf.
[14] Secretary of State of Nevada, "Questions that have Qualified for the 2006 Ballot (as of 8/29/06), available at http://sos.state.nv.us/nvelection/int_ref/QuestionsThatHaveQualifiedforthe2006Ballot.pdf.
[15] Kit Wagar and Steve Kraske, "State Ballot Issues Rejected," *Kansas City Star*, May 26, 2006.
[16] Public Citizen examination of campaign finance reports.
[17] District Judge Dirk M. Sandefur, Montanans for Justice et al. v. State of Montana et al., Montana Eight Judicial District Court, Cascade County, Sept. 13, 2006.
[18] District Judge Dirk M. Sandefur, Montanans for Justice et al v. State of Montana et all, Montana Eight Judicial District court, Cascade County, Sept. 13, 2006.
[19] District Judge Dirk M. Sandefur, Montanans for Justice et al v. State of Montana et all, Montana Eight Judicial District court, Cascade County, Sept. 13, 2006.
[20] Public Citizen review of campaign finance reports filed with the secretary of state of California.
[21] Montanans for Justice, et al, v. State of Montana, et al. In the Supreme Court of the State of Montana, Opinion issued Oct. 26, 2006.
[22] John Greiner, "Court Rules Against Petition on Eminent Domain Protection," *The Daily Oklahoman*, June 21, 2006.
[23] Laura Oppenheimer, "Anti-Spending Crusaders Gain Steam for Fall Votes," *Portland Oregonian*, August 21, 2006 and Americans for Limited Government, Form 990, 2004. See also information on Americans for Limited Government Web site at www.getliberty.org/board.php.
[24] Patrick Hoge, "Mogul's Network Bankrolls Prop. 90," *San Francisco Chronicle*, Oct. 5, 2006. Also see Arizona Secretary of State's list of contributors to ballot measures. Fund for Democracy address is listed as 73 Spring St., New York, N.Y., 10012, where Howie Rich's businesses are located.
[25] See Club for Growth Web site at http://www.clubforgrowth.org/record.php and http://www.clubforgrowth.org/about.php.

[26] Club for Growth State Action, Form 990, 2004.
[27] Colorado at its Best, Form 990, 2004.
[28] U.S. Term Limits, Form 990, 2004.
[29] District Judge Dirk M. Sandefur, Montanans for Justice et al. v. State of Montana et al., Montana Eight Judicial District Court, Cascade County, Sept. 13, 2006. See also, Jonathan R. Motl complaint of July 17, 2006 regarding Montanans in Action addressed to Gordon Higgins, Commissioner of Political Practices.
[30] Examination of IRS 990s filed by the organizations and available at www.guidestar.org.
[31] See, for example, Americans for Limited Government, Form 990, Statement 2, 2004.
[32] Public Citizen review of campaign finance reports filed in Arizona, California, Idaho, Missouri, Nevada, Oklahoma and Washington and information on Montana from District Judge Dirk M. Sandefur, Montanans for Justice et al. v. State of Montana et al., Montana Eight Judicial District court, Cascade County, Sept. 13, 2006. See also, Jonathan R. Motl complaint of July 17, 2006 regarding Montanans in Action addressed to Gordon Higgins, Commissioner of Political Practices.
[33] Blaine Harden and Juliet Eilperin, "Court Ruling Fuels Dispute in West Over Eminent Domain," *Washington Post*, Oct. 2, 2006.
[34] District Judge Dirk M. Sandefur, Montanans for Justice et al. v. State of Montana et al., Montana Eight Judicial District Court, Cascade County, Sept. 13, 2006. See also, Jonathan R. Motl complaint of July 17, 2006 regarding Montanans in Action addressed to Gordon Higgins, Commissioner of Political Practices.
[35] Nancy Stricklin, "Legal Analysis of Prop," *Creating Quality Cities*, Newsletter of the Association of Idaho Cities, Sept. 28, 2006. Available at http://www.idahocities.org/.
[36] "The Impacts of Proposed Initiative 933 on Real Property and Land Use in Washington State," Northwest Center for Livable Communities, University of Washington College of Architecture and Urban Planning, September, 2006.
[37] "The Impacts of Proposed Initiative 933 on Real Property and Land Use in Washington State," Northwest Center for Livable Communities, University of Washington College of Architecture and Urban Planning, September, 2006.
[38] "Potential Fiscal Impacts of I-933: Concerning Government Regulation of Private Property," Office of Financial Management, Washington State.
[39] William G. Hamm, Ph.D., and Bert M. Dickey, Ph.D., "The Fiscal Impact of Proposition 90," LECG, September, 2006.
[40] Charles Lane, "Justices Affirm Property Seizures," *Washington Post,* June 24, 2005. See also *Susette Kelo, et al, Petitioners v. City of New London, Connecticut, et al*. Supreme Court decision June 23, 2005.
[41] *Susette Kelo, et al, Petitioners v. City of New London, Connecticut, et al*. Supreme Court decision June 23, 2005.
[42] "Eminent Domain Post-Kelo: 2005-2006 State Legislation," National Conference of State Legislature's Web Site, available at http://www.ncsl.org/programs/natres/annualmtgupdate06.htm.
[43] Leonard C. Gilroy, "Statewide Regulatory Takings Reform: Exporting Oregon's Measure 37 to Other States," Reason Foundation, 2006, Page 24.
[44] Text of legislation, HB 555, and chronology of legislative actions, available at http://www3.state.id.us/oasis/2006/H0555.html#daily.
[45] See text of Initiative 933 at http://www.secstate.wa.gov/elections/initiatives/text/i933.pdf
[46] Analysis of Proposed Initiative 933 & its Consequences for Washington," Washington chapter of the American Planning Association, available at http://www.washington-apa.org/pdf/Final_Draft_of_APA_I_933_Analysis.pdf
[47] Oregon State government Web site statistics on Measure 37 impact, available online at http://www.oregon.gov/LCD/MEASURE37/summaries_of_claims.shtml#Summaries_of_Claims_Filed_in_the_State.
[48] Sheila A. Martin e-mail to Public Citizen Senior Researcher John O'Donnell, Sept. 26, 2006.
[49] Sheila A. Martin interview with Public Citizen Senior Researcher John O'Donnell Sept. 21, 2006.
[50] Sheila A. Martin and Katie Shriver, "Documenting the Impact of Measure 37: Selected Case Studies," Institute of Portland Metropolitan Studies, Portland State University, January 2006.
[51] Gordon Oliver, "Oregon on the Cusp" *Planning* (70)(9) October 2004, as cited in Sheila A. Martin, Ph.D. and Katie Shriver, "Documenting the Impact of Measure 37: Selected Case Studies," Institute of Portland Metropolitan Studies, Portland State University, January 2006.
[52] Sheila A. Martin, Ph.D. and Katie Shriver, "Documenting the Impact of Measure 37: Selected Case Studies," Institute of Portland Metropolitan Studies, Portland State University, January 2006.
[53] Sheila A. Martin interview with Public Citizen Senior Researcher John O'Donnell Sept. 21, 2006.
[54] Sheila A. Martin, Ph.D. and Katie Shriver, "Documenting the Impact of Measure 37: Selected Case Studies," Institute of Portland Metropolitan Studies, Portland State University, Page 9, January 2006.

[55] Rick Bella, "We May Need To Take Initiative, Slow the System, *Portland Oregonian*, Jan. 31, 2005.
[56] Sheila A. Martin, Ph.D. and Katie Shriver, "Documenting the Impact of Measure 37: Selected Case Studies," Institute of Portland Metropolitan Studies, Portland State University, Pages 12-13, January 2006.
[57] Sheila A. Martin, Ph.D. and Katie Shriver, "Documenting the Impact of Measure 37: Selected Case Studies," Institute of Portland Metropolitan Studies, Portland State University, Page 9, January 2006.
[58] Sheila A. Martin, Ph.D. and Katie Shriver, "Documenting the Impact of Measure 37: Selected Case Studies," Institute of Portland Metropolitan Studies, Portland State University, Page 25, January 2006.