

## APPENDIX: ARE PROPERTY RIGHTS POPULAR?

by Brian Seasholes

Conflicting sides in the property rights debate claim popular allegiance. Yet there is not a wealth of publicly available polling data on property rights with which to evaluate the competing claims of public support. Nonetheless, a review of public survey data over the past several years suggests that a majority of Americans support property rights in principle and believe that strong property rights protections do not conflict with sound environmental protection.

Americans have long supported the idea of property rights. In 1964, Gallup conducted a poll where the following question was put to survey participants: "Here are several statements that people critical of the government sometimes make. Just tell me whether you agree or disagree. The government is interfering too much with property rights." 40 percent agreed with this statement, 38 percent disagreed and 23 percent did not know.

In the 1970s two separate property rights polls were conducted by Louis Harris and Associates, in 1973 and 1975, which asked the following questions:

1) "Here is a list of things some people think made America great. For each item, do you feel this was a major contributor to making America great, a minor contributor or hardly a contributor at all? . . . Allowing people to own private property." The responses were as follows.

	<u>1973</u>	<u>1975</u>
Major contributor	88%	87%
Minor/Hardly a contributor/Not sure	12%	13%

2) "Here is a list of things some people think made America great. In the next 10 years, do you think each of these items will be a major contributor to making the country great, a minor contributor, or hardly a contributor at all? . . . Allowing people to own private property." The responses were as follows:

	<u>1973</u>	<u>1975</u>
Major contributor	84%	82%
Minor/Hardly a contributor/Not sure	16%	18%

Both of these polls revealed strong support for property rights in principle.

A third poll taken in 1974 by Yankelovich, Skelly and White asked the following: "Here are some statements which represent some traditional American values. How do you feel about each one? . . . The right to private property is sacred." The responses again indicated support for private property:

I believe strongly in this statement	70%
I partially believe it	23%
I don't believe it	8%

While these three polls do not explicitly address the issue of when governments should or should not be allowed to infringe upon private property rights, they do indicate very clearly that Americans have a basic grasp of the importance of the ability for citizens to own property. This suggests that the growth of the property rights movement over the past several years, far from being a recent "backlash" against government regulation, is a result of a genuine appreciation of the importance of property rights among the American people. Given the significant increase in federal regulation of private land over the past two decades, this data would suggest that the "backlash" was inevitable.

Recent polling data supports the contention that property rights enjoy general support from the American people. In 1992, Gallup conducted the first National Environmental Forum for Times Mirror Magazines. In this poll, participants were asked "should the government compensate private property owners" in the following instances:

1) When "land is devalued by the need to protect an endangered species;" in this instance, 59 percent of respondents answered yes while only 28 percent answered no;

2) When "land is devalued by classification as a wetland;" in this instance, 52 percent answered yes while 32 percent answered no.

These results are quite interesting because this same poll also found that, with regard to current endangered species and wetlands regulations, 51 percent and 52 percent of Americans, respectively, did not think they had gone far enough, 26 percent and 24 percent, respectively, think a good balance has been struck while 16 percent and 9 percent, respectively, think regulations have gone too far. Majorities both supported the idea of increased federal environmental regulation in these areas while also supporting compensation to landowners, which is not current federal government policy. Americans want strong environmental protection, but they also want to ensure that property rights are protected in the process.

Indeed, Democratic pollster Celinda Lake told the *Times-Picayune* (July 3, 1994) that 80 percent of Americans consider themselves to be environmentalists, but 66 percent of Americans think property rights are not protected adequately under current law. These results reflect the data in the Times Mirror polls, namely that environmental protection, as an abstract idea, is widely supported, but that when confronted with the question of how government should or should not go about protecting environmental quality, Americans have also demonstrated a desire to see that private property is protected.

A number of regional polls have been conducted that also indicate support for private property. In October 1994, Florida people of voting age were asked by Fabrizio, McLaughlin and Associates to respond how they would vote on "a [state] ballot measure that would require state or local governments to fully compensate home or other property owners for any damages or losses that result from governmental decision or actions." 59.5 percent responded that they would definitely vote for such a measure, 16.3 percent said that they would probably vote for the bill and 9.5 percent said they probably or definitely would vote against the proposed measure; 14.7 percent were undecided.

The same firm conducted a similar poll in Georgia in December 1992. In this poll the following question was put to people of voting age; "do you agree or disagree that the government should be required to compensate private property owners if environmental regulations reduce the value of their property?" 63.3 percent of respondents were in favor of compensation, 29.5 percent were against, and 7.3 percent did not know or had no opinion.

Property rights was a pivotal issue in the 1994 Texas gubernatorial race, and as a result groups on both sides of the issue conducted statewide opinion polls. The consumer advocacy group Public Citizen released a poll on October 8, 1994 in which a number of questions about the environment, economics and property rights were asked.

1) When asked whether Texans have a "moral obligation to future generations to protect the diversity of wildlife from pollution and extinction, even if they have no current economic value," 80 percent of respondents agreed (39 percent strongly), 16 percent disagreed (4 percent strongly) and 3 percent fell into an unspecified "other" category.

2) When asked whether more or less public land needs to be set aside to protect endangered species, water quality and for recreation, 60 percent thought more public land should be set aside while 25 percent thought less should be set aside and the remaining 15 percent fell into an unspecified "other" category.

3) When the statement "allowing some people to do whatever they want with their land harms the common rights of all citizens to clean air, clean water, and wildlife diversity" was pitted against the opposing statement "governmental environmental laws are unfairly taking away the rights of some landowners to use their property however they want," 44 percent agreed with the former while 39 percent agreed with the latter.

4) When asked to choose one of the following two statements: "taxpayers are already paying for too much and can't foot the bill to compensate landowners," and "when some uses of a piece of land are prohibited or limited because of environmental laws, the taxpayers should be required to compensate the landowners," 56 percent chose the first statement while 29 percent chose the second.

5) When presented with the statement, "Texas charges property taxes on land set aside as habitat for endangered species or to preserve water quality. Some countries have a program that allows landowners to pay no taxes on land that is set aside for this purpose," 67 percent agreed with this policy and 25 percent opposed it, while 8 percent fell into the "other" category.

As the first statement shows, most people favor blanket statements about the need to protect the environment. Yet the other questions in the Public Citizen poll are worded in such a way as to make it appear that the people of Texas are not supporters of property rights, either in theory or practice. While 60 percent may believe more public land needs to be set aside to protect endangered species, water quality and for recreation, it is unclear whether respondents were advocating state acquisition of more land or specific uses for the land already in state ownership.

Perhaps the most misleading of the questions was the juxtaposition of the statement "allowing some citizens to do whatever they want with their land harms the common rights of all citizens to clean air, clean water, and wildlife diversity" with "governmental environmental laws are unfairly taking away the rights of some landowners to use their property however they want." These two statements are not mutually exclusive. Indeed, many property rights advocates would agree with both statements as property rights have never meant that people can do "whatever they want" with their property. Under takings compensation proposals such as that proposed in the Republican "Contract with America," if the activity in question can be construed as a public nuisance by a court of law then that activity can be enjoined without requiring compensation.

The third question was similarly misleading, as it presupposed that requiring compensation would necessarily result in a tax increase to pay for it — something that most Texans would oppose. When government agencies are going to be forced to pay compensation for regulatory takings, they always have the option to rescind the regulatory action that would have caused the taking. The resulting prioritization of regulatory activities within government agencies will greatly reduce the cost of paying compensation, as agencies will engage in fewer actions for which compensation is required.

The Texas Farm Bureau commissioned a poll in July 1994 that had very different results from the Public Citizen poll. A total of 78 percent of Texans disagreed (64.5 percent "strongly") with the statement, "in general, the government should have the right to restrict how private property is used." Only 12.3 percent agreed (4.3 percent "strongly") with this statement, while 9.8 percent were neutral.

In this poll, when presented with the statement "to protect the environment, the government should have the right to restrict how private property is used" the results were closer. 39.8 percent disagreed (22.3 percent "strongly"), 38.0 percent agreed (14.5 percent "strongly"), and 22.3 percent had no opinion or were undecided. Yet again, many of those who believe that the government should have the right to restrict the use of private property for environmental protection may still desire compensation.

This was borne out by responses to the following two statements in the Texas Farm Bureau poll:

1) "In general, property owners should be compensated if the value of their property is reduced by government-mandated restrictions on land use." 81 percent agreed with this statement (59.5 percent "strongly"), 9.6 percent disagreed (5.8 percent "strongly"), and 9.5 percent were neutral.

2) "In general, property owners should be compensated if their ability to earn money is reduced by government-mandated restrictions on land use." 72.8 percent agreed with this statement (48.3 percent "strongly"), 11 percent disagreed (6 percent "strongly") and 16.3 percent were neutral.

The responses to these two statements show that an overwhelming majority of Texans still would favor compensation for takings.

The survey even went so far as to pose a legislative hypothetical with the statement "I would support a law that grants financial reimbursement to property owners who suffer financial losses due to government-mandated restrictions on land use." 73.0 percent agreed (47.0 percent "strongly"), 9.1 percent disagreed (5.3 percent "strongly"), and 18.0 percent were neutral. That Texans advocate passing a law to insure takings

compensation indicates broad belief in property rights.

The most extensive state property rights poll was taken in May 1994 for Arizona Citizens for Property Rights in conjunction with the state property rights ballot initiative, Proposition 300. Like the other polls it showed strong support for property rights. For instance:

- 1) When given the statement "people have a constitutional right to be compensated for a loss of value in their property," 65 percent agreed while only 27 percent disagreed.
- 2) When asked to evaluate government efforts aimed at "protecting the rights of property owners," only 5 percent felt that the government is doing too much while 48 percent felt that the government was not doing enough. The remainder either did not know or believe that government is protecting private property sufficiently.
- 3) When given the statement "the initiative is needed to protect property owners against the power of state government," 63 percent agreed, and only 27 percent disagreed. The remainder did not know or refused to answer.

While the poll showed strong support for property rights, Proposition 300 failed, largely because the bill was poorly worded and anti-property rights groups widely outspent property rights proponents.

The failure of Proposition 300 could have been foreseen from the results of the Arizona poll. When characterized in certain ways, property rights proposals lose public support. Consider two examples:

- 1) When given the statement "people should be compensated for losses in property value, but I won't support a property rights law if it means higher taxes." 66 percent agreed, 29 percent disagreed, and 6 percent did not know.
- 2) When given the statement "the last thing Arizona needs is another Proposition that requires government bureaucrats to write more reports and do more studies," 74 percent agreed, 22 percent disagreed, and 3 percent did not know.

These responses show that while Arizonans strongly support the concept of property rights they do not support compensation for public nuisances, compensation through taxes or compensation requirements potentially leading to more bureaucracy. These sentiments are consistent with the other polls that asked similar questions. Given Arizonan's strong support for property rights, the failure of the supporters of Prop. 300 to include provisions addressing the above three issues and the ability of the opposition to capitalize on them in large part explains the failure of the initiative.

The polling data on property rights is not overwhelming. Nonetheless, what limited evidence there is suggests that Americans support property rights in principle, and do not see strong property rights protection as something that conflicts with the protection of environmental quality.

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