

The Erosion of Property Rights

Written by Larry Salzman

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The government should be the protector of property rights, not one of their worst violators.

Imagine you've been enjoying your backyard picnic table and chairs for the past 10 years when suddenly, for no apparent reason, you are served notice from a government agency that you will be fined \$6,000 a day unless you remove them.

Or, imagine you would like to add a stone walkway to your garden. You begin to research the procedure and costs, only to learn that a lengthy application will be required, with multiple hearings before a state commission. You find yourself embroiled in a Kafkaesque legal battle costing tens of thousands of dollars. Finally, after years of struggle the government demands, as a condition for approving your little walkway, that you "donate" a portion of your land to the state.

Do these sound like nightmarish stories out of some totalitarian regime?

Shockingly, they are normal, everyday incidents for property owners across the nation.

In California, for example, a state agency called the California Coastal Commission routinely tramples the property rights of coastal landowners. People residing within five miles inland of California's 1,100 miles of coastline are subject to the commission's power to approve or deny improvements involving "any solid structure" on their property. This can include adding a room to a home, planting trees, adding a fence or garden walkway and, yes, in one current Orange County case, a picnic table and chairs.

Established in 1976, the California Coastal Commission's mandate is to "preserve, protect . . . and restore the resources of the coastal zone for the enjoyment of the current and succeeding generations." The Commission operates on the premise that the roughly 1.5 million acres under its jurisdiction are a "priceless natural heritage of all the people," ignoring the fact that the "priceless heritage" of California's coastline is abutted by private homes and businesses whose owners paid dearly for their property.

"All the people" have no right to demand that landowners sacrifice their property for the interests, real or alleged, of non-owners. If one owns property, one has the moral right to control it--even if that conflicts with the esthetic tastes or priorities of non-owners. One has the right to acquire property and, once acquired, to use it without interference from others, subject to only one condition: an owner must not interfere with the rights of his neighbors to do

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likewise. Your life and property belong to you not to others.

The California Coastal Commission and other agencies like it stand the very purpose of government on its head. The Declaration of Independence reminds us that it is only "to secure these rights," that "governments are instituted among men." A legitimate governmental agency would not violate property rights by telling an owner how he must use his property--it would do all that it could to protect the owner in his right to develop his property according to his best judgment.

Once we accept the principle that the government can deprive some individuals of their right to property, there is no basis to reject the complete usurpation of private property. If a home owner on California's coast can be ordered to stop building a shower, a shed, or a walkway, or to refrain from placing chairs and a table in his backyard, what prevents the state from gutting the right to property anywhere in America?

Indeed, all around the country there are escalating attacks on homeowners' property rights. In Lake Tahoe the smallest details of lakeshore homes, including their paint color, are regulated by a multi-state planning board. In Washington, D.C., a landlord cannot sell his own property without permission from his tenant. Near San Francisco certain homes designated as "affordable" can be sold for no more than a government-controlled price. In Portland there are wide swaths of the city in which one cannot build a single-family home on one's own land, even if it is adjacent to other suburban homes. In hundreds of U.S. cities, various laws establishing "historical districts," "landmarks," or "improvement zones" straightjacket owners who are consequently unable to remove trees, erect fences, add rooms, or even change rain gutters.

Government boards, agencies and commissions with this kind of authority should be opposed not on a case-by-case basis, but on principle. The only proper state policy with respect to private property is: hands off! In America, no governmental agency should have the power to deprive an individual of his property rights.

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