

BOARD OF COUNTY COMMISSIONERS  
KLAMATH COUNTY, OREGON

Date 8-6-92  
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AN EMERGENCY ORDINANCE TO PROTECT THE )  
PUBLIC PEACE, GENERAL WELFARE, HEALTH )  
AND SAFETY OF THE CITIZENS OF KLAMATH )  
COUNTY FROM VIOLATIONS OF THE )  
CONSTITUTIONAL RIGHTS OF THE )  
CITIZENS, (2) REAFFIRMING THE )  
PROTECTIONS FOR PRIVATE PROPERTY )  
AS PROVIDED IN THE FIFTH AND )  
FOURTEENTH AMENDMENTS TO THE U.S. )  
CONSTITUTION AND THE CIVIL RIGHTS )  
ACT, AND (3) REESTABLISHING THE )  
DEFINITION OF PRIVATE PROPERTY )  
PROTECTED BY THE CONSTITUTION AND )  
THE CIVIL RIGHTS ACT AS DEFINED )  
IN CURRENT FEDERAL CASE LAW AND )  
REGULATION. )

ORDINANCE NO. 66

ENTERED  
ON COMPUTER

WHEREAS, the Fifth and Fourteenth Amendments to the United States Constitution provide that private property shall not be taken for a public use without payment of just compensation and without due process; and

WHEREAS, the Supreme Court of the United States has also examined those constitutional protections and affirmed that such taking shall not occur. (See First Evangelical Lutheran Church of Glendale v. County of Los Angeles. 107 S.Ct. 2378 (1987) (Reaffirming the constitutional right granting compensation to a private property owner for a governmental regulation that deprived that owner of the reasonable economic use of his property, even though the deprivation or taking was only temporary) and Nollan v. California Coastal Commission. 107 S.Ct. 3141 (1987) (Requiring that governmental land use decisions or regulations be narrowly

ORDINANCE

focused on the public benefit as compared to the necessity of taking private property); and

WHEREAS, on March 18, 1988, Presidential Executive Order 12630 was enacted and requires all federal agencies to analyze the economic effects or takings implications of their proposed policies, decisions, rules and regulations on the private property, private property rights and investment backed expectations of individual citizens; and

WHEREAS, pursuant to this Executive Order and Supreme Court cases, the Attorney General for the United States has promulgated guidelines that define private property and property rights and establish a procedure for federal agencies and departments to utilize in analyzing the effects of their proposed rules, action and decisions on private property, and

WHEREAS, the Commissioners endorse the private property protections guaranteed by the U.S. Constitution and desire to ensure that those protections and rights are afforded to the citizens of Klamath County; NOW THEREFORE

Section 1. That the following definition of private property as taken from the Attorney General's Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings, dated June 30, 1988, (Guidelines adopted pursuant to Executive Order 12630) shall be adopted within Klamath County:

ORDINANCE

a. Private property includes all property protected by the Fifth and Fourteenth Amendments to the United States Constitution, including but not limited to, real and personal property and tangible and intangible property.

b. Private property protections shall also include protection for "investment backed expectations."

Section 2. That all private property and private property rights within Klamath County as herein defined shall be fully protected under the Fifth and Fourteenth Amendments of the U.S. Constitution, under Article XI, Section 4 of the Oregon Constitution, and under the Civil Rights Act.

Section 3. That violations of this ordinance by state and federal agencies shall be deemed to be a violation of Klamath County ordinance number 65. Liability under this Ordinance shall be placed upon the federal official or officials responsible for making and implementing any decision which fails to comply with this Ordinance.

Section 4. That if any provision of this Ordinance or the application thereof is held invalid, such invalidity does not affect any other provision of this Ordinance which can be given effect without the invalid provision or application, and to those ends the provisions of this Ordinance are severable.

Section 5. This ordinance is an emergency measure necessary to protect the health, welfare, and safety of the citizens of Klamath County.

Dated this 5th day of <sup>August</sup>~~July~~, 1992.

BOARD OF COUNTY COMMISSIONERS

  
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CHAIRMAN OF THE BOARD

  
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COUNTY COMMISSIONER

  
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COUNTY COMMISSIONER