By John D. Echeverria

In an important but relatively little noticed case, the federal appeals court for California will hear argument next week on whether the U.S. Constitution should be read to reward investors in a mobile home park with a once in a life time killing on their property — at the expense of residents and moderate income mobile home residents. The case, Guggenheim v. City of Goleta, raises a question under the Takings Clause of the Fifth Amendment to the U.S. Constitution, which states that “private property shall not be taken for public use, without just compensation.” The investors claim that a mobile home rent control law in the city of Goleta, if continued in effect, causes the property to be a “takings” at their property entitling them to “compensation” from the city.

Historians generally agree that the Takings Clause was only intended to give public officials power to take private property in order to accomplish certain specific governmental objectives, and that the phrase “without just compensation” did not originally apply to regulatory restrictions on property. No property rights value exists, in other words, unless Justice Antonin Scalia has acknowledged that “neat constitutional theories did not influence the Takings Clause embedded regulations of private property.”

Despite this history, the Supreme Court has said that certain new regulations implicate such property burdens on private use and value that they should be treated as takings. The ultimate test, the Court has said, is whether regulations can or are necessary that are the “functional equivalent” to outright property seizures, or government appropriations that the Takings Clause was originally designed to address.

The key to understanding the Guggenheim case is that the plaintiffs are seeking to get the constitutionally stolen loot back, or at least to alter the terms of the robbery.

The importance of this case is greatly increased by the fact that at least 100 other California communities have similar laws and the Guggenheim decision will very likely decide the constitutional fate of those other laws. Thus, this case could affect far more than the legal fates of mobile home park residents of Goleta who are in the bull’s eye of this particular case.

Surprisingly, last September, a three-member panel of the 9th U.S. Circuit Court of Appeals, in an opinion written by Judge Jay J. Bybee, known as the Bush administration official responsible for personnel matters administering supreme court appointment nomintation techniques, upheld the investors’ legal theory. Judge Andrew J. Kleinfelder, a noted conservative on the federal appeals court, dissented. The 9th Circuit has now granted a rare en banc hearing to re-examine the ruling, scheduled for June 22 at the federal courthouse in Pasadena. Hopefully, the en banc court will use the case as an opportunity to treat the “expropriation” of private property in a case of this different a light.

The merits of rent control laws are hotly debated by policy analysts and economists but are especially sensitive for mobile home park investors, because they are particularly vulnerable to economic changes.

Mobile home park investors purchased the park about a decade ago. After buying the park, they had to get the consent of the city council to continue the rent control laws in their park, but the city council agreed. The investors purchased the park about a decade ago. The investors then purchased a house in the park and lived there, and that this provision of the Bill of Rights did not apply. The city council agreed. The city council also approved a change in the rent control law so that it would reflect this economic reality. In 2000, a federal district court ordered the city to adopt a rent control law that would reflect this economic reality.

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