



Written by [Joe Wolverton, II, J.D.](#) on December 21, 2015

Utah Think Tank Supports State Amendment Protecting Property Owners' Rights

A liberty-minded Utah think tank is proposing an amendment to the state constitution that would protect private property from being effectively eradicated by any level of government overreach.

Libertas Institute announced on December 16 that it was working with state representative Mel Brown, who will introduce a bill adding one word to the state constitution that would buttress the wall separating property owners' rights from the grasp of government.



"It's widely believed that property rights are a fundamental aspect of good government," said Connor Boyack, president of Libertas Institute. "But our research, along with conversations with land use attorneys, property owners, and city officials, makes clear one simple fact: they don't actually exist to the degree most people would expect."

"This constitutional amendment, though simple, is significant," Boyack continued. "Property rights protections are out of balance, and judges lack the ability to overturn the actions of neighbors or cities that violate this right, simply because there is no relevant constitutional language. We're hoping to fix that with this proposal."

The constitutional amendment aims to balance a property owner's right against a city's ability to arbitrarily restrict this right, unless a compelling state interest can be shown in protection of the public health, safety, and welfare.

"For years we've heard and collected stories of people's property rights being violated in Utah, and now we're excited to offer a simple solution that will restore balance between a property owner's rights, and the interests of city government," said Josh Daniels, policy analyst at Libertas Institute. "We are confident that the legislature will recognize the importance of this amendment and submit it favorably to Utah voters on the 2016 ballot."

In a public policy brief published by the organization, the situation in one rural Utah town highlights the need to shore up the formerly sacrosanct right to property:

Virgin is a small, rural town in Washington County, Utah. Home to approximately 600 residents, it is located along SR-9, the road that leads to Zion National Park. About seven years ago, Duane and Susan Munn took notice of a scenic, 80+ acre parcel of land that was available for sale. Despite not knowing how they might ultimately use it, they decided to purchase the land.

Unbeknownst to these new land owners, a group of residents, calling themselves the "Friends of Virgin," organized themselves to change the land-use ordinances, control how others could use their property, and prevent any future commercial development. Their success has prevented this family from developing the land ever since.



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As a result, nearby towns enjoy significant commercial development, while such progress has completely stagnated in Virgin. To this day, it is not possible to buy a gallon of gas or a loaf of bread within town limits — and many residents of the community intend to keep it that way.

The document supports its position with paragraph after paragraph rehearsing the history of property rights in the United States: “Government in the United States of America — municipal, state, or federal — was intended to protect pre-existing rights, including and especially the right to use property,” Libertas contends.

“The advent of zoning and land-use ordinances led local governments to instead position themselves as grantor of property rights, relying upon an expansive interpretation of a U.S. Supreme Court case to assert authority and claim general control over the development of property within their jurisdictions. Left unchecked, these policies have proliferated, to the detriment — and direct violation — of fundamental property rights,” the paper asserts.

There is no doubt that our Founding Fathers regarded property rights as among the most sacred and the most fundamental to the development of government founded on the consent of the governed.

John Locke was one of the thinkers most influential on the men of the Founding generation, and his defense of a person’s right to exercise control over his own legal property is clear and used to be convincing.

In Chapter 19 of his seminal *Second Treatise on Civil Government*, Locke wrote:

Whenever the *Legislators endeavor to take away, and destroy the Property of the People*, or to reduce them to Slavery under Arbitrary Power, they put themselves into a state of War with the People, who are thereupon absolved from any farther Obedience, and are left to the common Refuge, which God hath provided for all Men, against Force and Violence. Whensoever therefore the *Legislative* shall transgress this fundamental Rule of Society; and either by Ambition, Fear, Folly or Corruption, *endeavor to grasp themselves, or put into the hands of any other an Absolute Power* over the Lives, Liberties, and Estates of the People; By this breach of Trust they *forfeit the Power* the People had put into their hands, for quite contrary ends, and it devolves to the People, who have a Right to resume their original Liberty. [Emphasis in original.]

Representative Brown and the Libertas Institute have obviously read and understand Locke’s words and appreciate their historical as well as contemporary applicability to property in Utah.

In a summary of their research and report on the erosion of property rights, the group faithfully recites American history in defense of their proposal:

Property rights were an essential and fundamental pillar of the American experiment, and their usurpation and violation were among the reasons listed in the Declaration of Independence that justified separation from Great Britain and the formation of a new country.

Unfortunately, governments at all levels of this country have become just as oppressive on this issue as the King once was; property rights, though widely regarded as a core aspect of good government, are routinely subordinated to the interests of the state. They are frequently mentioned on the campaign trail, in academia, and in debates over political theory, but in actual practice, property rights are not what they were initially intended to be.

While many states constitutionally protect the right to acquire, possess, and protect property, no state recognizes one’s inalienable right to actually use it. The need is great, and the fix is easy;



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Utah now has an opportunity to be a leader in restoring and protecting this right.

Sadly, one front in the battle to restore property rights is completely ignored by the Libertas Institute: the United Nations' Agenda 21.

Agenda 21 would see people robbed of their rights to property and collected into urban areas, with all property being ceded (forcibly) to one or the other government (U.S. or global) agency for the purpose of supporting sustainable development. The John Birch Society is on the front lines of the war to defeat the globalists' push to consolidate control over all property.

Securing property rights is essential to the preservation of liberty. As Ron Paul once wrote:

Privacy is the essence of liberty. Without it, individual rights cannot exist. Privacy and property are interlocked. If both were protected, little would need to be said about other civil liberties. If one's home, church or business is one's castle, and the privacy of one's person, papers and effects [is] rigidly protected, all rights desired in a free society will be guaranteed. Diligently protecting the right to privacy and property guarantees religious, journalistic and political experience, as well as a free market economy and sound money. Once a careless attitude emerges with respect to privacy, all other rights are jeopardized.

The Libertas Institute is working with Representative Brown to push the property-protecting amendment through the state legislature in its next session. Should state lawmakers approve the measure, it will be on the ballot in 2016 for consideration by the citizens of the Beehive State.



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