

#92340

P. 2521-
2523

O R D I N A N C E # 91-3

153

ORDINANCE OF THE TORRANCE COUNTY COMMISSION, State of New Mexico,
(1) adopting an Ordinance to protect the public peace, general welfare,
health and safety of the citizens of Torrance County from violations
of the Constitutional rights of the citizens, (2) reaffirming the
protections for private property as provided in the Fifth and Four-
teenth Amendments to the U.S. Constitution and the Civil Rights Act,
(3) re-establishing the definition of private property protected by
the Constitution and the Civil Rights Act as defined in current federal
case law and regulation, (4) requesting that the Legislature of the
State of New Mexico enact similar legislation to codify within state
law such statutes and regulations as enacted by this county Ordinance.

THE COMMISSION FINDS:

1. That the Fifth and Fourteenth Amendments to the United States Constitution provides that private property shall not be taken for a public use without payment of just compensation and without due process.
2. That 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 focused on the public benefit as compared to the necessity of taking private property).
3. That 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.
4. That 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.

5. That the Commissioners of Torrance County 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 Torrance County.

BE IT DECREED BY THE TORRANCE COUNTY COMMISSION,
STATE OF NEW MEXICO

THE COMMISSION DECLARES:

1. That to provide for the general welfare, public peace, health and safety of the citizens of Torrance County, passage of this Ordinance is required to protect the citizens of Torrance County from current or potential violations of their Constitutionally protected property rights.
2. 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 Torrance County.
 - 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."
3. That all private property and private property rights within Torrance County as herein defined shall be fully protected under the Fifth and Fourteenth Amendments of the U.S. Constitution and under the Civil Rights Act.
4. That violations of this Ordinance by the state and federal agencies shall be deemed to be a violation of Torrance County Ordinance # 91-3. 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.

5. 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.

THE COMMISSION DIRECTS that a copy of this Ordinance be forwarded to the Legislature for the State of New Mexico and respectfully requests that similar legislation be passed by the state.

PASSED, ADOPTED AND SIGNED by the Torrance County Board of Commissioners as Torrance County Ordinance # 91-3 and recorded with the Torrance County Clerk this 4th day of September 1991.

TORRANCE COUNTY COMMISSION

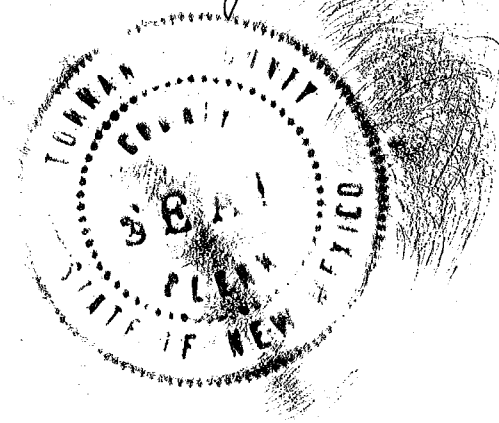
Adron Brown
Chairman

Alfred Llanuaga
Member

Charles R. [unclear]
Member

ATTEST:

Carla Clayton
Clerk of the Board



STATE OF NEW MEXICO
County of Torrance

I hereby certify that this instrument was filed for record on the 5 day of Sept A.D., 19 91 at 1:52 o'clock P M. and duly recorded in book 263 at page 2521-2523

Witness my hand and Seal of office
Carla Clayton
County Clerk, Torrance Co., N.M.
Carla Clayton Deputy