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Utah Association of REALTORS®

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June 23, 2000

(86)

Rules and Directives

Supporting data for Mac Brubaker's comments before the USNRC on August 21, 2000

TO: United States NRC, BIA, BLM, & STB
FROM: Mac Brubaker, UAR President & Christopher Kyler, UAR General Counsel
DATE: 9-19-00

Utah Association of REALTORS® President, Mac Brubaker, testified before the Nuclear Regulatory Commission on August 21, 2000. Mr. Brubaker spoke in opposition to the proposal to license the transportation of high level nuclear waste based on the effect such licensing would have on property values. He contended that property values along the entire transportation route would decrease, thereby giving homeowners a cause of action under takings law. *See City of Santa Fe v. Komis*, 845 P.2d 753.

In support of his testimony, President Brubaker demonstrated the magnitude of the proposed taking by citing existing data on average home sale prices, average densities per acre, and potential decreases in property values. The following is a numerical recitation of his testimony:

-100 miles of RR track along the Wasatch Front (distance based on proposal)

-multiplied by ½ mile of affected property on either side of the track (based on a 2000 Utah public survey, +/- 5% error margin)

-multiplied by 2 sides of the track

= 100 square miles of impacted property

-multiplied by 2000 homes per square mile (based on 3 home per acre density)

= 200,000 homes affected

-multiplied by Wasatch Front average home sales price of \$163,000 (based on the published UAR Quarterly Market Report, 2nd Quarter, 2000)

= \$33,000,000,000 in affected real estate

-at 15% loss in value (low estimate based on a 2000 Utah public survey, +/- 5% error margin)

= \$5,000,000,000 loss in value

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It is the UAR's contention that the \$5,000,000,000 loss in value as calculated above is a conservative estimate, and would be considered the minimum combined value of compensable takings along the Wasatch Front. The UAR's numerical recitation of the loss of value is substantiated by a recent public survey conducted in Utah along the Wasatch Front. This survey actually supports an affected property range of more than one mile on either side of the railroad tracks, and supports a loss of value far greater than 15% per parcel. Furthermore, this same data (apart from average densities and average home prices) would be relevant along the entire transportation route, not just the Wasatch Front.

The 2000 Utah public survey asks similar questions and posts similar results to the poll cited by the New Mexico Supreme Court in *City of Santa Fe vs. Komis*. In fact, the results of this survey show that 82% of Utahns would be less likely to purchase a home on land **perceived** to be dangerous due to the transportation of hazardous materials. The survey also shows that 74% of Utahns believe that the "zone of impact" would extend **beyond one mile** of the railroad tracks, thereby extending the "zone of compensable taking" to far more than 1/2 mile.

The Utah Association of REALTORS® will vigorously oppose the current proposal until all concerns regarding property values have been satisfactorily addressed, including discussion as to how land owners will be compensated for fair market value.

Due to the lack of discussion regarding property values within the current proposal, the Utah Association of REALTORS® respectfully requests that the United States Nuclear Regulatory Commission, The U.S. Bureau of Indian Affairs, the U.S. Bureau of Land Management, and the U.S. Surface Transportation Board **deny** the licensing for the Construction and Operation of an Independent Spent Fuel Storage Installation on the Reservation of the Skull Valley Band of Goshute Indians and the related transportation facility in Tooele County, Utah, or in the alternative, we respectfully request that the time period for public comment be extended six-months beyond the September 21st deadline.

Sincerely,

Mac Brubaker
UAR President

Christopher Kyler
UAR General Counsel