

## **Committee on Resources, Full Committee**

- - Rep. James V. Hansen, Chairman

U.S. House of Representatives, Washington, D.C. 20515-6201 - - (202) 225-2761

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### **Witness Statement**

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Statement of  
F. Patricia Callahan, President and Founder  
American Association of Small Property Owners  
LEGISLATIVE HEARING  
H.R. 701, the Conservation and Reinvestment Act (CARA), and  
H.R. 1592, the Constitutional Land Acquisition Act  
U.S. HOUSE OF REPRESENTATIVES  
Committee on Resources  
Hon. James V. Hansen of Utah, Chairman  
June 20, 2001

Mr. Chairman and Members of the Committee. Thank you for your invitation to appear today and express the perspective of small property owners on H.R. 701, the Conservation and Reinvestment Act, or CARA, and H.R. 1592, the Constitutional Land Acquisition Act. I am Pat Callahan, president and founder of the American Association of Small Property Owners, the voice of small landlords and real estate investors.

Since 1993, AASPO has been working for the right of small property owners to prosper freely and fairly -- to make possible the American dream of building wealth through real estate. Based in Washington, DC, and with experts and advisors strategically located throughout the nation from California to New England, AASPO is the only national organization for small landlords, property owners and real estate investors to share information and strategies on important issues of the day.

There are 10 million small owners of residential and commercial investment properties, accounting for more than \$40 billion per year in direct economic activity. We are served by 2,000 state and local associations around the country. AASPO's print newsletter, The Small Property Owner, was voted the "Best Independent Real Estate Newsletter for 1996" by the National Association of Real Estate Editors. Our web site is at [www.aaspo.org](http://www.aaspo.org). We use the internet as the main communications vehicle for our growing constituency.

AASPO believes that entrepreneurship flourishes in a free-market economy. This means that taxes and regulations should be kept to a minimum, and that government must clearly define its role to provide for the general welfare of all its citizens. Government programs should encourage small property owners, not stifle them, and certainly not compete with them. Too often we see that policies and programs which started with good intentions have the opposite effect.

We oppose CARA as it is the next step in an already flawed federal land policy. About one hundred years ago, the federal government stopped privatizing its massive land holdings, and started to act as the perpetual owner, instead of temporary steward, of its lands. As a consequence, the federal government became the nation's #1 land owner, in several states owning more than half of the land.

The land holdings eventually came to be organized into various tracts, from wilderness areas to national parks to national forests. Yet, even in the latter tracts, where "multiple use" prevails, the possibility of ownership in fee simple was taken off the table. Thus, a hallmark of our Constitutional order, the ancient "privilege and immunity" of free people to own land in fee simple no longer motivated public policy.

CARA moves this land policy in the wrong direction, by authorizing the acquisition of some \$45 billion in land over fifteen years.

To be sure, our Constitution allows the acquisition of private property for public purposes provided there is just compensation, and there can be no objection to select acquisition of land by the federal government when this has a "proper and necessary" relationship to the enumerated powers of the federal government. But select acquisition of private property is altogether different from the concerted effort embodied in CARA. Private ownership of real property is a fundamental principle on which our country was founded. Ownership of land is connected with freedom itself. The history of our political parties shows that private property ownership has been at the core of our governmental process. If you take the resources and ownership out of land use, then you destroy the fundamental meaning of private property ownership. As Thomas Jefferson observed in 1816: "The true foundation of republican government is the equal right of every citizen in his person and property and in their management."

Private property ownership underlies the opening of the West to settlement in the last century. Responsible stewardship is best exercised not by government but by private owners. Private landowners are natural conservationists, inclined to "multiple use," preserving what is most valuable to be preserved, and developing what is most valuable to be developed. The highest and best use of one's property is best determined by the owner, not the federal government.

Property ownership is a local issue and is best dealt with by local government. This is another founding principle of federalism, that the power of decision-making rests with state/local consensus. In the absence of a compelling need and a compelling federal interest, the federal government should not intrude into land use decisions and certainly not become an owner of private property. No where in the Constitution is there granted the right of the federal government to enter into the real estate business. Private property ownership is not a "Western" issue. It is an urban issue, a woman's issue, a minority issue, and an immigrant issue. Our Massachusetts chapter president is an immigrant from Switzerland and regularly reminds me that America is the only country where ordinary people can hope to own real estate. It is a magnet that draws newcomers to our shores.

Urban landlords are sensitive to the present debate because of our experiences with encroachment on the management of our properties, as you would find with rent control in New York City and California. Sixty years ago, in response to a national wartime emergency, rent control was imposed in many communities. But New York City has never ended its housing "emergency." The result has been a shortage in housing options, lost tax revenue and missed opportunities for women, minorities and immigrants to become successful landlords in New York. Unfortunately, the situation has not been allowed to be self-correcting. The shortfall in local property tax revenues, for example, is conveniently made up for by an infusion of federal funds through various grant programs, thus removing an important element for municipal fiscal discipline.

Land use involves tough issues, fought out on the local level. It is an exercise in democracy which can at times become very contentious. The intervention of the federal government in land use matters, whether directly or through a funding mechanism, will allow ideologues to exercise undue influence in the process,

and thereby disenfranchise local private property owners.

Finally, there is the economic impact of CARA. We question the effects on transportation and the flow of energy resources to our cities and suburbs. For example, how would a pipeline reach our cities if parts of the route were to be placed off-limits by designating land as wilderness? In sum, we feel that the federal government should be a minimal interventionist. If citizens want a particular benefit, they should discuss, debate, vote on and pay directly for it. The closer the taxpayer is to the collection point, the wiser the decision is likely to be.

A recent article in USA Today illustrates this point, and reports that voters in states and municipalities around the nation are approving new taxes to purchase open spaces. Last year, California approved \$5 billion in acquisition funds. Open-space advocates say approving tax hikes for recreational and environmental purposes is an easier sell at the county and municipal level -- because voters are more willing to pay to keep land green when it is in their own neighborhood. The movement is swiftly building momentum. In November 2000, voters approved 172 local measures, raising \$2.4 billion for land acquisition -- a considerable jump from the \$540 million raised in voting two years earlier. Residents of Boise, ID voted last month to hike property taxes for two years and devote the \$10 million to purchases of land outside the city. In April, voters in McHenry County, IL, and in DeKalb County, in the Atlanta area, passed bond referendums to buy open space. Since March 31, Massachusetts towns have voted to raise property taxes as much as 3 percent to finance open-space acquisitions and other land issues. Source: Martha J. Moore, "Cities Tax to Keep Land Green," USA Today, May 31, 2001.

In conclusion, we would hope that the policies and programs that compel consideration of constitutional protections for private property, as found in H.R. 1592, would be changed so that this bill would be unnecessary. But absent such a move, we support the enactment of H.R. 1592.

Thank you.

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