

# Just Compensation under California Law

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# Constitution of the State of California

## Article I, §19(a)

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- “Private property may be taken or damaged for a public use and only when just compensation, ascertained by a jury unless waived, has first been paid to, or into court for the owner. The legislature may provide for possession by the condemnor following commencement of eminent domain proceedings upon deposit in court and prompt release to the owner of money determined by the court to be the probably amount of just compensation.”

# How can just compensation be determined under California law?

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An analysis of three cases heard in California state appeals courts

San Diego Water Authority  
v. Mireiter

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18 Cal. App. 4th 1808 (1993)

## *Mireiter* - Issue

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- Should the discovery of vernal pools on the property, which would cause a devaluation in property value, be considered as evidence in the determination of just compensation since they were found through a biological inspection done after the date of valuation?

## *Mireiter* – Key Points

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- Actual value, NOT fair market value, is what is required for just compensation.
  - “Actual value is market value when the true conditions are fully disclosed” – *Tyson Creek R. Co v. Empire Mill Co.* (1918)

## *Mireiter* – Key Points

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- “Hindsight Approach” - Although facts were developed after the date of valuation, because the facts did exist, although unknown, at the time of valuation, they are treated in valuation as if they were known from the beginning.
  - Works in conjunction with the definition of “actual value”
  - This is to protect both the government and property owners.

People ex rel Dept. of  
Transportation v. Tanczos

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42 Cal. App. 4th 1215 (1996)



## *Tanczos* - Issue

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- Should Tanczos's approved plans for construction of apartment houses on the now-condemned property be admitted as evidence in court to prove the property is worth more than it was valued at?

## *Tanczos* – Key Points

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- The admissibility of approved construction plans depends on if their use is to show a specific or potential purpose
  - Specific – inadmissible
  - Potential – admissible. Can be used to show that the property has various feasible uses.

## *Tanczos* – Key Points

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- This is in accordance with §§1263.310 & 1263.320 of the California Code of Civil Procedure, which states that an owner is entitled to the land's fair market value when each party in the deal have “full knowledge of all the uses and purposes for which the property is reasonable adaptable and available”

Saratoga Fire Protection District  
v. Hackett

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97 Cal. App. 4th 895 (2002)

## *Hackett* - Issue

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- Should the court have provided additional compensation from the value of the property during the valuation date since the value of Hackett's property substantially rose before the trial?

## *Hackett* – Key Points

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- Under §1263.120 of the California Code of Civil Procedure, the valuation date for eminent domain actions that will be brought to trial within one year is the date of the commencement of the action.

## *Hackett* – Key Points

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- However, according to the 1984 U.S. Supreme Court case *Kirby Forest Industries Inc. v. U.S.*, if setting the trial or commencement date as the date of valuation causes the owner to receive substantially less than fair market value, then it violated the fifth amendment right to just compensation.
  - In this case, Hackett would receive \$1.2 million less

## *Hackett* – Key Points

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- Involuntary devaluation of a property, such as from a fire or natural disaster, would not penalize the owner when determining compensation.
- The court extends this reasoning to the *involuntary* increase in valuation of a property.
  - Voluntary changes resulting in an increase aren't considered.



# Fused Rule

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IF a property is condemned by a governmental agency through eminent domain,  
AND the property's value is different than the amount determined on the  
date of valuation

AND that difference was caused by either:

- a. Discovery of features to the land,
  - i. AND those features were not previously known or disclosed,
- b. Unintentional fluctuations to the market value of the property, or
- c. Additional uses that the land potentially, but not specifically, could  
have been used for had it not been condemned

AND NOT caused by either:

- a. An intentional, non-approved change made to the property
- b. A natural disaster

THEN the change in value must be considered when determining valuation for  
just compensation.