

Property Rights and the Founding Fathers - What It Means for Rural Communities

Another Property Right Rant... With Historical Context and Commentary

Those who lease or sell their cherished land to renewable energy developers often claim that their “rights” are being violated when others oppose these developments. They frame this opposition as an affront to democracy itself. However, they seem to forget that our democracy—founded on the principle of being “*Of the People, By the People, For the People*”—exists to balance individual rights with the collective welfare of the community.

Our rights, as enshrined in the Declaration of Independence, are endowed by our Creator—not granted in isolation for individual gain but intended to harmonize personal freedoms with the public good. Those rights are accompanied by responsibilities to ensure they do not infringe on the rights or welfare of others. This balance is essential to maintaining a just and equitable society.

Opponents of renewable energy projects, which the landowners stand to profit from, have every right to petition their government. It is their democratic prerogative to advocate for the enforcement of existing laws and regulations or to push for new ones that protect the health, safety, and welfare of those adversely affected by such developments. This is not an attack on democracy—it is democracy in action. True democracy thrives when individuals engage with their government to ensure that decisions reflect the common good, not just private interests.

Reject the selfish and false narrative that property rights are absolute, particularly when applied to renewable energy facilities and developments. Perform your own due diligence on the nature of property rights and their limits, and understand that these rights must coexist with the well-being of the broader community. Our rights, endowed by the Creator, demand that we act with responsibility, ensuring that individual freedoms do not undermine the collective welfare. Until you do so, resist bending a knee to those who exploit fear and misinformation to prioritize personal gain over the shared values that sustain our democracy.



Historical Context and Background:

The American Revolution was partly fueled by grievances over property rights. British policies, such as the Stamp Act (1765) and the Townshend Acts (1767), imposed taxes and regulations that colonists viewed as violations of their property rights. Additionally:

- **Confiscation and Seizures:** British soldiers quartered in private homes and the seizure of goods without proper compensation underscored the need for protections against arbitrary government action.
- **Taxation Without Representation:** Colonists saw unchecked taxation as an infringement on property and a direct assault on their autonomy.

These experiences convinced the Founders that a government must protect property rights to ensure individual freedom and economic stability.

Thomas Jefferson's phrase "*life, liberty, and the pursuit of happiness*" from the Declaration of Independence is one of the most famous expressions of American ideals. It is rooted in John Locke's earlier formulation of natural rights as "*life, liberty, and property*." Although Jefferson's substitution of "the pursuit of happiness" for "property", this represents a nuanced shift in priorities that reflects both his recognition of property rights and his understanding of their limitations. This decision

reflected Jefferson's broader vision of individual rights and his desire to articulate an ideal of liberty that extended beyond material wealth and landownership. The replacement was rooted in Enlightenment ideals, inclusivity, and moral considerations that aligned with Jefferson's aspirations for the new republic.

In Jefferson's era, many Americans, including women, enslaved people, and landless laborers, did not own property. By replacing "property" with "pursuit of happiness," Jefferson made the Declaration's ideals more inclusive, ensuring they resonated with a broader audience. "Pursuit of happiness" emphasized access to opportunities rather than the possession of wealth, aligning with the revolutionary spirit of dismantling aristocratic privilege and expanding rights.

Jefferson recognized that property rights, while important, needed to be tempered by moral and societal considerations: 1) **Moral Responsibility of Property:** Jefferson believed property was a means to achieve independence and self-sufficiency but not an end in itself. Wealth should be used to support civic virtue and public welfare rather than for selfish accumulation, & 2) **Public Good:** By focusing on happiness, Jefferson acknowledged that liberty required balancing individual rights with collective responsibility. Property rights could not be absolute if they undermined social equity or public progress.

Even during the debates during the Constitutional Convention and state ratifying conventions, these debates reveal a nuanced approach to property rights. While there was consensus on their importance, few delegates considered them absolute. Property rights were framed as vital to liberty and economic stability but also as subject to limitations for public welfare, equitable governance, and moral considerations. These discussions laid the groundwork for the Constitution's balanced treatment of property rights, ensuring their protection while accommodating the needs of a democratic society.

Additionally, the Founding Fathers' emphasis on property rights in the U.S. Constitution was shaped by their experiences under British rule, Enlightenment philosophies, and practical concerns for building a stable republic. While they believed property rights were essential for liberty and prosperity, they also recognized the need for limitations to balance individual rights with the public good. They placed great importance on property rights, viewing them as a cornerstone of liberty and a necessity for building an independent and equitable society. For rural communities and farmers, these ideas were particularly significant, as land ownership often meant self-reliance and stability.

A Brief Commentary On Our Founding Fathers-

- **John Locke**, a British Enlightenment thinker, was one of the most significant influences on the Founding Fathers. Locke argued that property rights were natural rights, rooted in an individual's labor and effort. The idea that property was essential to life and liberty deeply resonated with the leaders of the American Revolution, who saw property as fundamental to securing freedom from oppressive governments. "Every man has a property in his own person. This nobody has a right to but himself. The labor of his body, and the work of his hands, we may say, are properly his.", Mr. Locke wrote as a part of his argument for natural rights.
- **Thomas Jefferson** saw property rights as central to his vision of America as an agrarian republic. He believed that widespread land ownership was vital for ensuring equality and maintaining a citizenry that was economically independent and politically engaged. "The small landowners are the most precious part of a state.", he wrote in a letter to James Madison in October of 1785. In this correspondence, Jefferson expressed his belief that widespread land ownership was key to a stable and virtuous republic, underscoring his preference for an agrarian society. Jefferson saw landownership as foundational to individual independence, moral virtue, and active participation in a democratic republic. To Jefferson, small landowners represented the ideal citizens, as their economic self-sufficiency freed them from dependency on others—whether aristocrats, corporations, or centralized governments. He believed this independence was essential for fostering a virtuous, informed, and engaged populace, capable of resisting tyranny. Landownership was not merely an economic asset but a means of sustaining liberty and self-governance.
- **James Madison** broadened the idea of property beyond physical land and possessions. He believed property included not only tangible assets but also intangible rights, such as opinions, beliefs, and personal faculties. This concept underscored the belief that safeguarding property meant protecting the full spectrum of individual autonomy and rights. "A man has a property in his opinions and the free communication of them... He has an equal property in the free use of his faculties and free choice of the objects on which to employ them." In Mr. Madison's essay *On Property* (1792), Madison argued that property rights were deeply intertwined with individual freedom. He believed that the government's role was to protect these rights, ensuring that every individual could exercise their faculties and possessions without undue interference. Additionally, in *Federalist No. 10*, Madison noted that a functioning government must balance the competing interests of property owners and the broader community. He warned against the dangers of factions but acknowledged the need to mediate conflicts between different property interests. He also reflected his support for the Constitution's Fifth Amendment (Takings Clause) further illustrates his nuanced view. By requiring "just

compensation" for property taken for public use, Madison acknowledged both the sanctity of property rights and the necessity of compromise for the greater good.

- “It is the interest of all classes to have the confidence of property well-secured. It is this which gives energy to enterprise and establishes order and justice.”, **Alexander Hamilton** was quoted as stating in *Report on Manufactures*. This reflects his pragmatic and strategic approach to property rights. For Hamilton, securing property was not just about protecting individual wealth; it was about fostering economic growth, societal stability, and a thriving republic. For him, this security was foundational to justice, social order, and the energy needed to fuel a prosperous economy. Alexander Hamilton, in contrast, viewed property rights through the lens of commerce and industry. He emphasized the need for a strong federal government to protect economic interests and facilitate growth. While his vision often leaned towards urban and industrial development, Hamilton recognized that secure property rights were critical to fostering investment and innovation. While he recognized their importance, he believed they were not inviolable and could be subject to limitations when necessary for the greater good. While he recognized their importance, he believed they were not inviolable and could be subject to limitations when necessary for the greater good. His nuanced approach balanced the sanctity of property with the responsibilities of governance. Hamilton valued property rights as a cornerstone of economic and social order, but he did not consider them absolute. His perspective was rooted in pragmatism: property rights were to be protected but also regulated when necessary to serve the public good, foster economic growth, and ensure justice.

Property Rights Although A Cornerstone, They Are Not a Monolith

As discussed, from the earliest days of our nation, property rights have stood as a vital pillar of our collective promise—rooted in the ideals of “*life, liberty, and the pursuit of happiness*”. The Founding Fathers enshrined property rights as essential to individual freedom and self-reliance. Yet, they never intended these rights to be absolute. They understood that the strength of any republic lies not in unchecked freedoms but in a delicate balance between individual rights and the common good.

Consider the debates of our Founding Fathers. James Madison called property a natural extension of individual liberty, but he also warned that unchecked rights could lead to tyranny of the majority or exploitation by the powerful. Thomas Jefferson, the champion of the small landowner, believed that property rights were a means to achieve equality and independence, not a tool for selfish gain. Even Alexander

Hamilton, with his focus on commerce and industry, supported limits when property conflicted with public welfare.

This vision was not mere rhetoric—it became law. The Constitution, through mechanisms like the Fifth Amendment’s Takings Clause, allowed property to be taken for public use with just compensation, reflecting the understanding that individual property sometimes serves a higher societal purpose. Courts have reaffirmed this balance repeatedly, from *Euclid v. Ambler Realty Co.* in 1926, where zoning laws were upheld to protect community well-being, to *Kelo v. City of New London* in 2005, where the needs of economic development clashed with individual ownership. Each case reinforced the principle: property rights are essential but not unbounded.

As you can likely begin to see, the laws regarding property rights were paramount and great debate and consideration was given when developing and ratifying the set of laws which frame them. However, these property rights are not, nor were they ever intended to be absolute. For example:

Zoning and Land Use Regulation: A Tale of Boundaries

- Picture this: it’s the 1920s, and America is roaring. Cities are growing, factories are churning, and neighborhoods are expanding. In Euclid, Ohio, a quiet suburb outside Cleveland, residents enjoy a slower pace of life. They value their residential neighborhoods, their parks, and their sense of peace. But then comes Ambler Realty Co., a company with big plans for the area. They want to build industrial facilities in the middle of this serene community, turning fields into factories and quiet streets into truck routes. The local government isn’t having it. They pass a zoning ordinance that declares certain areas of the town residential only—no factories allowed. Ambler Realty is outraged. They argue that the ordinance effectively robs them of their property’s value and potential. To them, zoning is a thinly veiled excuse to control property owners, and they take the case all the way to the Supreme Court. Enter the landmark case of *Euclid v. Ambler Realty Co.* in 1926. The Court’s decision would shape land use law for decades to come. Justice George Sutherland, writing for the majority, upheld the zoning ordinance, declaring it a valid use of the government’s police powers to protect public welfare. He famously compared zoning to keeping “a pig in the parlor instead of the barnyard.” The message was clear: zoning laws could set boundaries on property use to ensure the broader community’s interests were protected.
- Now, fast forward to 1992 and the sunny shores of South Carolina. David Lucas, a property owner, buys beachfront land intending to build homes. But before he can even break ground, the state enacts a law prohibiting construction to preserve the coastline and prevent erosion. Lucas finds himself stuck with

land he can't use. To him, it's as good as having no land at all. Lucas takes his case to court, and in *Lucas v. South Carolina Coastal Council*, the Supreme Court rules in his favor. Justice Antonin Scalia writes that if regulations deprive property of all economic value, the government must compensate the owner. While the decision preserved Lucas's rights, it also reinforced that zoning and land-use regulations must strike a balance—they can limit property use for the public good, but they can't go so far as to render the property worthless.

Environmental Protections and Property Rights: A Clash of Values

- It's the 1980s, and Lake Tahoe glimmers in the sunlight, a pristine jewel straddling California and Nevada. People flock to its shores for its beauty, tranquility, and recreational charm. But as more homes and developments spring up along the lakefront, the crystal-clear waters begin to cloud. Alarmed, local officials create a regional plan to stop the degradation. Part of the plan includes a temporary moratorium on new construction to figure out how best to preserve the lake. Enter a group of landowners who've been dreaming of building their lakefront retreats. To them, the moratorium is an outrageous overreach. They argue that by freezing development, the government has effectively taken their property. How can they enjoy—or profit from—land they can't build on? They take their case to court, culminating in the 2002 Supreme Court decision *Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency*. The Court sides with the government. Justice John Paul Stevens writes that a temporary moratorium is not the same as permanently taking property, and such measures can be justified to protect a vital public resource. Lake Tahoe, he argues, is worth safeguarding for future generations, even if it means some property owners face delays or restrictions.
- But this isn't the only battle over environmental protection and property rights. Jump back to the 1990s in Rhode Island, where Anthony Palazzolo owns waterfront property he hopes to develop. Unfortunately for him, state regulations, aimed at preserving coastal wetlands, block his plans. Palazzolo feels cheated. The regulations existed before he bought the land, and now he's stuck with property he can't use. Undeterred, he sues the state, leading to the Supreme Court case *Palazzolo v. Rhode Island* in 2001. This time, the Court rules in Palazzolo's favor—but only partially. Justice Sandra Day O'Connor emphasizes that just because a regulation predates an owner's acquisition doesn't mean they forfeit the right to challenge it. Still, the case doesn't result in a windfall for Palazzolo. The Court sends the case back to state courts to determine if his property retained any value despite the restrictions.

These stories reveal an enduring tug-of-war over property rights—a dynamic and evolving struggle between individual freedoms and collective responsibilities. On one

side, property owners assert their right to use and profit from their land, determined to maximize its potential as they see fit. On the other side, governments and communities seek to shape their environments, protect public interests, and preserve fragile ecosystems. From zoning laws that prevent industrial encroachment into neighborhoods to regulations safeguarding pristine lakes and wetlands, these disputes highlight the tension between private ownership and the public good.

At its heart, this ongoing debate reflects a recurring theme: property rights are essential but not absolute. They must coexist with broader environmental and societal goals, balancing individual autonomy with the responsibility to protect shared resources for future generations. Whether it's a pig in the parlor, a house on the beach, or a wetland under threat, the legal and ethical questions surrounding property use continue to test the boundaries of what it means to balance liberty with collective well-being.

Current Claims of “Property Rights” Are A Misguided Claim to Absolutism

Fast forward to today, where some property owners proclaim their “*right*” to do whatever they please with their land. They argue that government regulations or restrictions are affronts to their liberty. But this mindset ignores the very principles on which our nation was founded. The Founders never envisioned property rights as a free-for-all. They knew that unregulated property use could harm neighbors, communities, and the nation itself. Laws limiting property use, from zoning to environmental protections, are not betrayals of the Constitution—they are fulfillments of its core values.

This absolutist claim to property rights also overlooks a more troubling reality: it plays into the hands of those who stand to benefit most from unfettered property rights—corporate interests. Take rural landowners who believe they should have the right to sell their land for industrial purposes, whether for fracking, pipelines, or large-scale renewable energy development. They may see this as exercising their freedom. But who profits most? Often, it is not the landowner, but the corporations that reap enormous financial rewards, leaving behind environmental degradation, fractured communities, and a diminished sense of shared responsibility.

An Analogy - A Hog Farmer and His Community

Imagine a farmer who decides to establish a large-scale hog farm on his land. He insists it's his right—after all, it's his property, and he should be free to use it as he pleases. At first, it seems like a symbol of success and independence, a way to turn a profit and make his mark. But soon, the consequences begin to ripple outward.

The waste from the hogs starts seeping into nearby water sources, affecting the wells and streams his neighbors rely on. The smell becomes unbearable, wafting far beyond his property lines, making life miserable for families who've lived in the area for generations. Wildlife disappears, and local ecosystems are thrown out of balance. The farmer continues, claiming it's his land and his right, ignoring the pleas of the community.

But the story doesn't end there. As the farm grows, the farmer faces the reality that his operation is heavily regulated. He is compelled to comply with a maze of state and federal laws, regulations, and guidelines. These include permits for waste management under the Clean Water Act, environmental impact assessments, and rules for air quality, health, and safety. Compliance requires time, money, and constant oversight—costs the farmer may not have fully anticipated when he decided to expand.

Then there's the corporate contract. The farmer is now entangled with a massive corporation that supplied the hogs and controls the market for his products. The corporation dictates nearly every aspect of his operation, from the type of feed and veterinary care the hogs receive to how and where the hogs are sold. The farmer realizes he doesn't have the autonomy he thought. He's subject to the corporation's demands, locked into their contracts, and unable to make decisions without their oversight. What once seemed like freedom has become a form of dependence.

And then comes the kicker—the fine print.

Buried deep in the contracts, the corporation has absolved itself of any liability should something go wrong. If the waste lagoons overflow into local water sources, if the farm faces lawsuits from angry neighbors, or if state or federal regulators impose hefty fines for violations of environmental laws, it's the farmer alone who is left holding the bag—or, in this case, the mountain oysters. The corporation reaps the profits, while the farmer bears the financial, legal, and reputational fallout.

The Renewable Energy Question...

Now consider a claim often made by those who lease their land for renewable energy developments: "Would you rather have a new hog barn or a renewable energy development next door?" It's a question designed to make renewable energy seem like the lesser of two evils. But the reality is that most, if not all, of us would prefer neither. Both types of developments come with significant challenges for neighbors, but at least with a hog farm, the farmer is subject to stringent laws and regulations—ones with a history of enforcement.

Renewable energy developments, on the other hand, often operate under a different set of rules. These projects seem to enjoy a special book of rights, privileges, and exemptions from many of the laws and regulations that govern other industries. While hog farms must adhere to environmental impact assessments, waste management permits, and safety protocols, renewable energy developments often bypass similar scrutiny, leaving communities to deal with noise, visual disruption, and other unforeseen impacts without the same legal protections.

In the end, the question isn't about choosing between two problematic neighbors; it's about ensuring fairness, accountability, and proper regulation for all industries. The idea of absolute property rights as a justification for leasing land to renewable energy developments or large-scale farming operations ignores the broader consequences for communities. Both must operate within a framework that prioritizes the health, safety, and welfare of everyone affected—not just the profits of corporations or the conveniences of a few landowners. But I digress.....

In closing - Balance is Liberty's Strength

Property rights are indeed a cornerstone of our republic, but their strength lies in their balance with justice and the common good as viewed through a broad lens. The Founding Fathers gave us a framework not for selfish isolation but for shared prosperity. **As rural landowners today face pressures from corporate exploitation disguised as opportunity, it's worth remembering that the strength of property rights lies not in absolutism, but in a collective commitment to fairness, equity, and the shared pursuit of happiness. Only then can we honor the ideals that built this nation.**

Those who lease or sell their cherished land to renewable energy developers often claim that their “rights” are being violated when others oppose these developments. They frame this opposition as an affront to democracy itself. However, they seem to forget that our democracy—**founded on the principle of being “Of the People, By the People, For the People”**—exists to balance individual rights with the collective welfare of the community.

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