James Madison, the architect behind the Constitution, wrote that “A Government is instituted to protect property. This being the end of government, that alone is a just government, which impartially secures to every man, whatever is his own.”

Claremont city government’s proposal to seize the local water provider, Golden State Water Company, and replace it with a new government department raises significant question about whether the city is a “just government.”

City officials have spent hundreds of thousands of taxpayer dollars just in the initial phase of the seizure plan, and have already offered $54 million without a vote of the people. The company argues that the city’s offer is significantly below fair value—something that should give residents of Claremont serious pause should the city ever choose to come after their property.

Few would deny that eminent domain is an important and necessary tool for government. But the purpose of the power is to allow the construction of roads and public buildings—not to take businesses away from private owners.

California is no stranger to abuse of eminent domain power. Cities have tried to condemn church property and private homes in order to construct big box retail stores. One city even tried to use the power to take over a professional football team! Clearly, possession of a great power does not impart the wisdom on how to wield the power.

The city should clearly explain the necessity for the takeover. Since protection of property is the first duty of a just government, citizens are entitled to know why their government will use this power to take a business away from its owners.

Is there a service deficiency that requires attention? The city has not argued Golden State Water Company has provided substandard service. If the business is providing services in a satisfactory manner, what is the rationale for the exercise of the power of eminent domain?

The city might argue that they could provide water (assuming that they can confiscate Golden State’s infrastructure and water rights) to city residents cheaper. If that is the rationale, then the city should explain how they will accomplish that feat. Will they use fewer employees? Will they pay those employees less?

One study suggests that water rates will necessarily increase just to cover the cost of the purchase. If moving employees from private to civil service with greater benefits and pensions will cost more, that is a cost that will passed along to the rate payers as well.

Citizens are rightly suspicious of the government’s exercise of powers like eminent domain. With this power, the city can deposit what it argues is fair value and immediately take over a business—leaving the owners with the option to take the city offer or engage in years of litigation seeking a fair payment. Because this power has such a severe impact on individual citizens, we should demand that the government carefully and fully explain the reasons.

Without increased citizen vigilance, we risk a government that no longer sees itself as a guardian of individual rights such as property. That is the path to an unjust government.

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