ENDNOTES

1 Arizona’s Private Property Rights Protection Act, A.R.S. 12-1134 et seq.
4 A.R.S. § 12-1131 et seq.
8 Courts in California, which has some of the most abusive property rules in the country, are somewhat schizophrenic on this point. Some have declared that blight findings, like most administrative determinations, are subject to the substantial evidence test, see, e.g., Beach-Courchesne v. City of Diamond Bar, 80 Cal. App. 4th 388, 400 (2000), but others have said that the standard is even lower. In Meaney v. Sacramento Hous. & Redevelopment Agency, 13 Cal. App. 4th 566, 578 (1993), for instance, the court held that “the evidentiary basis for [blight] findings is beyond the reach of judicial scrutiny; the courts may not inquire whether the findings are supported by substantial evidence or by any evidence at all in the administrative record.” (emphasis added.) Some California courts have held that the substantial evidence test does not mean “anything goes,” see, e.g., Roddenberry v. Roddenberry, 44 Cal. App. 4th 634, 651 (1996), but most of the time, they say the opposite. See, e.g., LeVesque v. Workmen’s Comp. Bd., 1 Cal. 3d 627, 635-37 (1970) (“the function of the appellate court begins and ends with a determination as to whether there is any substantial evidence, contradicted or uncontradicted, which supports the conclusion reached, disregarding any evidence in the record contrary to the conclusion.”) (emphasis added.)
9 Sandefur & Sandefur, Cornerstone of Liberty, 113-14.
21 In Santa Monica, it is illegal to rent a home for fewer than 30 days when the owner is not on-site. Tim Logan, “Santa Monica Comes Down Hard on Airbnb; Will Crackdown Spread?” L.A. Times, May 13, 2015, http://www.latimes.com/business/realestate/la-fi-santa-monica-council-oks-tough-rental-regs-20150512-story.html.
22 Marina Riker, “State, City Looking to Crack Down on Illegal Vacation Rentals,” Honolulu Civil Beat, March 10,


25 Sedona, Ariz., Code §§ 8-4-1 to 8-4-6.

26 See, e.g., Cape v. City of Cannon Beach, 855 P.2d 1083, 1086 (Or. 1993).


30 Pennsylvania Coal v. Mahon, 260 U.S. 393, 413 (1922).


33 Armstrong v. United States, 364 U.S. 40, 49 (1960); See also VanHorne’s Lessee v. Dorrance, 2 U.S. 304, 310 (C.C.D. Pa. 1795) (“Every person ought to contribute his proportion for public purposes and public exigencies; but no one can be called upon to surrender or sacrifice his whole property . . . for the good of the community, without receiving a recompence . . . This would be laying a burden upon an individual, which ought to be sustained by the society at large.”).


37 City of Jacksonville v. Smith, 159 So. 3d 888, 892-93 (Fla. Dist. Ct. App.), reh’g denied (March 18, 2015), rev. granted, 173 So. 3d 965 (Fla. 2015).


45 Christina Kohn (Sandefur), “Pima County Has Super-sized Plan for Starving Private Property Rights,” Tucson Sentinel, February 8, 2011, http://www.tucsonsentinel.com/opinion/report/020811_pima_obese_op/pima-county-has-super-sized-plan-starving-private-property-rights. Supporters argued that Proposition 207 exempts land regulations that protect public health and safety, but that exception is meant to address issues such as sanitation and traffic control, not broad, general ideas about what the government thinks people should eat.

46 Defendants’ Motion for Partial Summary Judgment, Sedona Grand, LLC v. City of Sedona, No. 1 CA-CV 10-0782, p. 4 (on file with the Goldwater Institute).

47 Sedona Grand, 229 Ariz. 37, 42 (Ct. App. 2012).

48 Id. at 43.

49 Id. at 42-43.

50 Id. at 43.

51 Id.
To be precise, the Arizona Court of Appeals interpreted the demand letter as imposing a “notice of claim” requirement, rather than an “administrative exhaustion” requirement. For a good explanation of the difference, see Moreno v. City of El Paso, 71 S.W.3d 898, 902-03 (Tex. App. 2002). This technical distinction matters because a statute of limitations is postponed for an exhaustion requirement but not for a notice requirement. Because the court in Turner’s case interpreted the demand letter rule as a notice requirement, the precedent allows officials to ignore any demand letter that arrives during the last three months of the statute of limitations period. A property owner must wait 90 days after the letter is sent before suing—but any property owner who sends such a letter within the last 3 months of the limitations period will find that by the time he or she can sue, the statute of limitations will have expired. Aspen 528, LLC v. City of Flagstaff, No. 1 CA-CV 11-0512, 2012 WL 6601389 (Ariz. Ct. App. December 18, 2012), rev. denied. The proposed Model Act closes this loophole by providing that the written demand is an exhaustion requirement, and that the statute of limitations does not begin to run until a demand is rejected or 90 days have passed. The Act also closes another similar loophole by declaring that a demand letter supersedes any other notice of claim requirement, thus ensuring that owners need not send multiple notice requirements, as Arizona courts initially required. See Turner v. City of Flagstaff, 226 Ariz. 341, 343 (Ct. App. 2011).


Koontz, 133 S. Ct. at 2595. See also Horne v. Dep’t of Agric., 135 S. Ct. 2419, 2430-31 (2015).

Sandefur & Sandefur, Cornerstone of Liberty, 110.