



## PROPERTY RIGHTS REPORTER

### Defenders' President Nancie Marzulla Speaks at CPAC

Property rights were a hot topic at the 2006 Conservative Political Action Conference in Washington, DC. This year marked Defenders' first as a co-sponsor of CPAC, and if the enthusiastic response we received from numerous property rights activists is any indication, there will be many more years to come. Defenders' booth was packed with useful information on how attendees could support property rights in their communities. It was an exciting and exhilarating three days of discussion and debate.



Activists from all across the nation gathered at the Omni Shoreham Hotel to hear speeches from conservative leaders such as Vice President Dick Cheney, Senator George Allen, and columnist Ann Coulter at the three-day event. Nancie Marzulla, founder and president of the Defenders of Property Rights, moderated a panel discussion entitled "Good Fences Make Good Neighbors in Land and Intellectual Property." Panel members included Steven Anderson of the Castle Coalition, Thomas Giovanetti of the Institute for Policy Innovation, Peyton Knight of the National Center for Public Policy Research, and Jim Prendergast of Americans for Technology Leadership. Each speaker stressed the importance of property rights—both physical and intellectual—as a civil right that should be as cherished and protected as the right to free speech and freedom of religion. The text of Nancie Marzulla's remarks can be found on Page 2 under the "President's Message."

### BB&T Announces Plan to Support Property Rights

On January 25, 2006, BB&T, the nation's ninth largest bank, announced that it will deny loans to developers who plan to build private projects on land acquired through eminent domain. In a press release issued by the bank, BB&T Chairman and Chief Executive Officer John Allison, said, "The idea that a citizen's property can be taken by the government solely for private use, extremely misguided, in fact it's just plain wrong. One of the most basic rights of every citizen is to keep what they own. As an institution dedicated to helping our clients achieve economic success and financial security, we won't help any entity or company that would undermine that mission and threaten the hard-earned American dream of property ownership." Defenders of Property Rights, a proud customer of BB&T since 1991, applauds BB&T and hopes that other banks will soon follow their lead.



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PLA Celebrates its 19th Anniversary  
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## Message from the President

Property Rights protection is one of the key principles upon which this country was founded, reaching back through the ages to bedrock principles. "Thou shalt not steal" is one of the Ten Commandments God gave to Moses. The Roman Justinian Code contains property rights protections, as does the Magna Carta. The economist Adam Smith, who wrote the influential book *The Wealth of Nations*, said that "the property which ever man has in his own labor, as it is the original foundation of all other property, so it is the most sacred and inviolable." John Adams, our nation's second president, said, "The moment the idea is admitted into society that property is not as sacred as the laws of God, and that there is no force of law and public justice to protect it, anarchy and tyranny com-

mence. Property must be secured or liberty cannot exist."

Our Constitution reflects this strong heritage of property rights protection. The Fifth Amendment guarantees that the government cannot take your property without providing you due process of law or payment of just compensation. The just compensation requirement is the only express money damages requirement in the entire Constitution. Article I, section 8, cl. 8 of the Constitution protects an individual's intellectual property in the form of ideas or writings and inventions.

Yet, today, property rights are among our most endangered liberties. As you will hear from our speakers today, intellectual property

is under assault by piracy and thefts other countries eager to jump-start their economies on the back of American investment and ingenuity. At home, we ourselves grapple with how to protect property we can't touch or see, but can download. Our ranchers and farmers who feed our nation struggle to make a living in the face of regulatory programs such as the ESA and the federal wetlands program. Last but not least, last year our Supreme Court told us that we're not even safe in our own homes. Your home may soon be endangered!



By Ms. Nancie Marzulla  
President, Defenders of Property Rights.



## Defenders of Property Rights Optimistic Brazil is Backing Away from U.S. AIDS Drug Patent Threat - Brazilian Health Minister Announces AIDS Situation 'Under Control,' Not a TRIPS-defined 'Health Emergency' in Statement to Country's Health Council

WASHINGTON, Nov. 16 /PRNewswire/ — Defenders of Property Rights (DPR) today announced its optimism that the Brazilian government has backed away from its threats to seize American AIDS drug patents. DPR points to the fact that Brazilian Health Minister Saraiva Felipe issued a bulletin to the National Council on Health stating the government's opinion that levels of HIV and AIDS are "under control" in Brazil, which has previously been Brazil's justification for breaking patents on anti-AIDS drugs.

"While encouraging, only time and action will tell if Brazil's sudden reversal of policy will become more than talk," said Nancie Marzulla, president of Defenders of Property Rights. "If Brazil does break patents, the world will now see the act for what it truly is — out and out theft," she added. Defenders of Property Rights has been

urging the Brazilian government for nearly a year not to take the dangerous, precedent-setting move of seizing patents on three U.S.- AIDS drugs. DPR has also worked to raise awareness for U.S. policy makers on the importance of protecting intellectual property abroad, particularly in Brazil. Defenders of Property Rights has also called on U.S. Trade Representative Robert Portman to question Brazil about its poor record of protecting American intellectual property rights. The Brazilian government had long argued that Brazil was in the midst of an AIDS "health emergency" and that a compulsory license abrogating patents would be issued if lower costs were not negotiated with American manufacturers.

Defenders of Property Rights ran a full-page, paid advertisement in the November 1, 2005 edition of Washington, DC's *Washington Times*

newspaper to further call public attention to the issue. The advertisement urged revocation of Brazil's GSP trade status if Brazil's abuse of American intellectual property rights continues. The ad was timed to run during the current review of the GSP program prior to its expiration at the end of 2006.

Last month, DPR submitted a formal petition in response to the Office of the United States Trade Representative's call for public comment on the GSP program. DPR requested that Brazil's preferred GSP trade status be revoked in light of the country's record on intellectual property rights. Brazil's stands as the number one abuser of IP rights in the Western Hemisphere costing American businesses an estimated \$900 million in losses in 2003 alone, according to the International Intellectual Property Alliance (IIPA).



# Stop Subsidizing Brazil's Unfair Trade.



## Brazil has pocketed too much ...

The Bush Administration is set to consider ending lucrative trade subsidies for some major exporters to the U.S. The U.S. Trade Representative will hold a public hearing November 3rd on the future of the Generalized System of Preferences (GSP) program, designed to stimulate trade with developing countries.

While French Polynesia, Slovenia, and Malta were "GRADUATED" from GSP in 2002, economic giants Brazil and India remain as the program's biggest beneficiaries, reaping billions in annual benefits.

Brazil is a dominant global exporter of oranges, fruits, and cotton. Here in the U.S., they have seen their exports increase by an average of 300% since 2000.

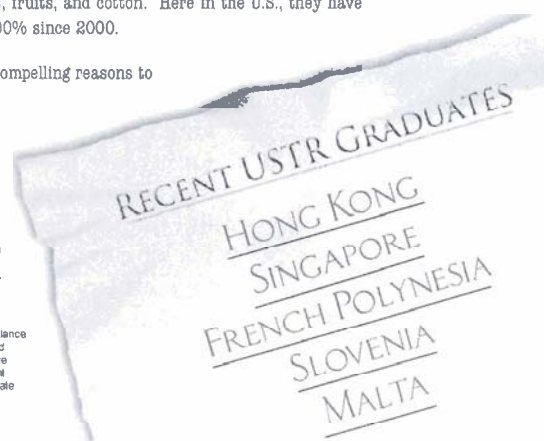
Apart from the economic case, there are more compelling reasons to graduate Brazil:

- it has scuttled an important trade agreement in the region with the U.S.
- failed to stop rampant copyright piracy
- blackmailed American drug companies into cutting prices in the face of patent seizure.

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About Defenders of Property Rights  
Defenders of Property Rights was founded in 1991 to counterbalance the governmental threat to private property as a result of a broad range of regulations. Defenders believes that society can achieve important social objectives such as protection of our environment, preservation of our national heritage without destroying private property rights or undermining free market principles.  
[www.yourpropertyrights.org](http://www.yourpropertyrights.org)





## Defenders of Property Rights Urges Congress to Protect Innovative Google Book Search Tool

WASHINGTON, Jan. 18 — Nancie G. Marzulla, president of Defenders of Property Rights, today submitted a letter to members of the House and Senate Judiciary Committees asserting that opponents of the Google Book Search program are seriously misrepresenting the facts about this emerging breakthrough in intellectual research. She went on to outline the technology's clear compliance with the "fair use doctrine."

In her letter, Ms. Marzulla called on Congress to question critics' claims that the Google Book Search project violates copyright law, and urged the congressional committees to protect the importance transformative technologies like the Google Book Search project have on our economy's growth and development. As one of the nation's most well-respected property rights attorneys, Ms. Marzulla does not see any violations in the case of Google Book Search.

"As an attorney who specializes in the constitutional protection of intellectual property rights, I am a close observer of emerging technologies which, when misused, represent a threat to property rights. Google Book Search does not represent such a threat to property rights, as it only allows users to view "snippets" of information — not even a whole page of text," said Ms. Marzulla.

She continued, "When one takes a close look at Google's new tool, one would realize that far from diminishing the value of a book, the search tool actually enhances a book's value by drawing it to the attention of readers who have a higher than average interest in buying it, having seen firsthand how the book contains information relevant to their inquiry," said Ms. Marzulla.

Google Book Search project was undertaken in collaboration with several of the world's leading libraries and

learning institutions to create a searchable online card catalog of the world's printed works. Contrary to what some are saying, users are only able to access a portion of copyrighted works for their desired content. They are unable to view the whole work. Google Book Search can be found at: (<http://www.books.google.com>).

Ms. Marzulla stated that, contrary to a recent suit filed by the Association of American Publishers and the Authors Guild, case law proves that Google Book Search does not appear to violate copyright law in letter or spirit. "The Google Book Search program plainly appears to meet the standards of the 'fair use doctrine,'" she concluded.



## A Sacred Right

He bought and paid for the land. He held the deed. He paid his taxes. But when he wanted to use the land for growing crops, the EPA said "No." That is the story, some 30 years old, of the man who bought the farm where I grew up. That incident opened my eyes to the concern of property rights. Ironically, for over 35 years, I had no land to call my own.

I am a preacher and it is as a preacher that I share these thoughts. Although the message of the Bible has to do, first of all, with eternal things, it also speaks to the concerns of this life. One of those concerns is property rights. The eighth commandment tells us we are not to steal. That command-

ment recognizes the right of any person to hold private property and expect that it will not be violated by anyone — including the government.

The Bible records several instances where one individual stole from another individual. But there are also instances where the "government" took property to which it had no right. In one case, a king wanted a certain piece of property for his own use. The property belonged to a farmer who was unwilling to sell. But through deceit and false accusation, the king had the farmer killed and then took his land. Judgment was passed upon that greedy king for what he had done.

To my knowledge, nothing that as drastic has happened in Pennsylvania! Still, one cannot ignore the fact that Western law is firmly grounded in the laws and commands of Scripture.

Why do we fight for the right to hold land and use it as we see fit? Why is it wrong for others — anyone — to step in and take control, if not outright ownership of someone's property? Because the right to hold property is given by the Creator Himself.

Pastor Jim Fish  
Asbury United Methodist Church  
Waterford, Pennsylvania



## Idaho's Property Tax Law Adds Insult to Injury

**L**ET'S assume that you or your family are down on your luck and do not have enough money to pay the property taxes on your land. As you probably know, the county government will eventually place a tax deed on your land and sell it to the highest bidder. In some states, the proceeds of the sale of your property is then used to pay off your tax bill, and anything over and above the amount you owe to the tax collector goes back to you.

Not true in Idaho. In Idaho, the County not only gets to apply the proceeds from the tax sales to pay the tax bill and the costs associated with the selling of the land, but the County also gets to keep any surplus cash, to do with it as the County officials please! Below is Idaho Statute 31-808, Section 2, which reveals what is to be done with surplus monies obtained after real property has been seized and sold for property taxes:

If the property to be sold has been acquired by tax deed, pursuant to the provisions of Chapter 10, title 63, Idaho Code, the proceeds from the sale, after reimbursement to the county for the cost of advertising and sale, shall be apportioned to the taxing districts in which the property is situated according to the levy applied to the year of delinquency upon which the tax deed was issued to the county.

Ironically, Idaho already has a law that protects owners of personal property, such as your car, from this sort of abuse. Idaho Statute 63-1107 explains clearly and concisely what is to be done with surplus monies obtained after per-



sonal property has been seized and sold for owing personal property taxes:

**DISPOSITION OF EXCESS.** All excess over the property taxes and costs of the proceedings of any sale must be returned to the owner of the property or deposited in the county treasury to be refunded by order of the county commissioners. Any unsold portion of any such property shall be stored until claimed by the owner or for thirty (30) days, whichever is less. The owner shall pay storage and transportation costs when reclaiming any unsold property.

So the question that begs to be asked is, if there is a clear "disposition of excess" statute already on the books for personal property, why is there not one for real property? Idaho, unfortunately, is not the only State that fails to protect landowners in tax sale situa-

tions. To this author's knowledge, only Montana, Wyoming, Ohio, Texas, and Washington have laws on the books to protect homeowners and landowners who lose their land in a tax sale. Find out where your State stands, and make sure that your rights and the rights of all Americans are protected. A forced tax sale is not an excuse for stealing private property.



*Matthew Kandrach is the Director of Policy at Defenders of Property Rights.*





*Celebrating 19 years of providing  
private landowners with a voice...*

*Pennsylvania  
Landowners'  
Association*

*~ & ~*

*Defenders of  
Property Rights*

*present the*

*19<sup>th</sup> Anniversary Dinner and  
Annual Membership Meeting*

*Thursday, March 30, 2006*

*Cross Creek Resort, Titusville, Pennsylvania*

## PLA Celebrates its 19th Anniversary!

The Pennsylvania Landowners Association is celebrating their nineteenth year of "providing private landowners with a voice." The PLA will be holding their 19th Anniversary Dinner and Annual Membership Meeting on March 30, 2006 at Cross Creek Resort in Titusville, Pennsylvania. Matthew Kandrach, Director of Policy for Defenders of Property Rights; Keith Klingler, President of the PLA; Bob Brace, Vice President of the PLA and current litigant against the U.S. government; and Donny Beaver, member of the PLA Board, will be this year's speakers. Topics will be wide-ranging but should cover eminent domain, the Endangered Species Act, the Tucker Act, Supreme Court, real estate tax reform & land purchases. It's not too late to join us for an evening of fine dining and informative speakers. Call the PLA office at (814) 796-4023 to RSVP.

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## From the PLA President: Growing Greener or Growing Government?

Well, it's official! The Rendell Administration has announced a lofty goal of eliminating 20,000 acres of private property per year for the next five years. The list of targeted areas is quite expansive and is certainly not limited to areas experiencing heavy amounts of urban sprawl. Even though there is already nearly five million acres of government-owned land, which represents well over twenty percent of Pennsylvania's land, the DCNR just can't seem to get enough. Timber and other resource companies who are trying to increase their land base to expand their businesses will have to compete with government land agents, mainly conservancies and land trusts that are using taxpayers' monies. These organizations also claim to be tax-exempt, charitable and non-profit so they can offer large tax incentives to landowners—something the private sector cannot do. I believe it's a sad day in Pennsylvania when our own government is competing against us in the private marketplace, using our money and offering tax incentives to seal the deal. When these additional properties are purchased by government, our tax-base takes another hit and we lose any hope of economic growth on these tracts forever. With more land acquisitions by the state, it will be more difficult for future generations to purchase their own land due to less land being available at a much higher price.

On the positive side, there was language built into the Growing Greener legislation stating that County Commissioners and Local State Representatives must approve of the land purchase before it takes place. I believe every county should have a "No Net Loss" of private property policy. Then they can simply respond to these requests for more state land acquisitions by saying, "We will approve this transaction only if property of equal value is sold back to the private sector in the county." This philosophy will go a long way in protecting the private property we have left. I'd also like to touch briefly on the

media attention regarding eminent domain versus regulatory takings. Though I think it's great that abuses of eminent domain are being uncovered by the national media on a daily basis, can you imagine if the same attention was given to the issue of regulatory takings? I think it's time that the taking of private property where the landowner gets nothing also be uncovered. In my view, the reason it has not been uncovered is clear - the liberal media caters to the environmental crowd and refuses to tell the story of regulatory takings and the conservative media has not made the connection between the two types of takings. Well, now is the time to educate them! Bob Brace and I have started to do just that as recently we spoke to a large group of property owners in Westmoreland County, near Pittsburgh, about land use issues - including that of eminent domain and regulatory takings. Not only were we well-received at the time, but since then, the response has been excellent. As a matter of fact, there may even be an opportunity to be a guest on a KDKA talk show and send our message out to potentially millions of listeners!

In the meantime, if you are wondering how we can turn this thing around in Pennsylvania, look no further than the elections. Pittsburgh and Philadelphia control a huge portion of the vote and the results are the reason we have Mr. Rendell as a Governor and the Growing Greener Bond issue was passed. We need to work hard on educating voters in these regions if we plan to make any progress on these issues. I hope to see everyone at the Annual Meeting March 30<sup>th</sup> where these and other topics will be discussed, including real estate tax reform. Don't miss this meeting where you'll have a chance to discuss these and other issues important to you with area legislators and the PLA Board of Directors. See you March 30<sup>th</sup>. Thanks,  
Keith Klingler



# Righttalk Radio: Your Property Rights

Your Property Rights is a recently launched monthly international radio show that Defenders hosts in Washington, D.C. Guests on the show range from state-based property rights advocates to public policy experts that deals exclusively with private property issues. Your Property Rights is broadcast on the newly created RIGHTTALK Radio network.

Each show is an information-packed 60 minutes, streamed online via computers or cell phones 24 hours a day, seven days a week. The original broadcast is live, and the show is then archived on the RIGHTTALK and Defenders' websites. The show is accessible anywhere in the world on a computer or a cell phone. Our broadcast features expert guests, insightful commentary, and phone calls from listeners. We use each show as an opportunity to inform the public on the latest in property rights

issues, which, in recent years, has become an increasingly broad and vital topic. No longer do property rights protections refer only to traditional ownership of physical properties, such as land or homes. As intellectual property rights issues such as copyright law and file-sharing software gain in political prominence, Your Property Rights will be there, covering the latest developments with entertaining commentary and expert analysis.

Listen to Your Property Rights at 2:00 EST on these upcoming dates:

**April 13, 2006**

**May 11, 2006**

**June 8, 2006**



## Matching Gifts Program Double Your Money or More!

Does your employer have a matching gifts program? Most companies, large and small, encourage charitable giving by their employees. And many of them will match, dollar-for-dollar (sometimes more), contributions their employees make to qualified tax-exempt organizations. That's us! Defenders of Property Rights is a nonprofit educational organization tax-exempt under Section 501(c) (3) of the Internal Revenue Code. Your contributions to us are tax-deductible and should qualify for matching under the terms of most corporate matching gifts programs.

Please check with your company's personnel department to see if a matching gifts program is available. It's a great way for you to make an even more generous contribution to Defenders than you already do, without reaching deeper into your own pockets!

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