



## How to Talk to Anyone About Property Rights

A significant portion of property rights issues occur at the local level—zoning, land-use regulations, preservation ordinances, and controls on short-term rentals being among the most common. Often, neighbor opposes neighbor over a proposal or ordinance regarding these issues.

In most instances, these conflicts become highly emotional. The debate typically consists of a series of claims and counter-claims. One side makes assertions and the other tries to rebut them. With this approach, civil discourse is impossible, and the inevitable result is an angry argument that frustrates everyone.

Fundamentally, the cause of this breakdown is the way the discussion is framed. The result is a free-for-all in which anything goes. The debate wanders from point to point, many of which are irrelevant. Each side makes assumptions about the other, many of which are wrong. With this approach, animosity is inevitable. But it doesn't have to be this way.

If the discussion is properly framed, we can have a constructive conversation. With proper framing, we can avoid angry arguments and move others closer to our position. Establishing the framework must precede a discussion of the facts, because the framework will determine how those facts are processed and evaluated. The first step in establishing the framework is to identify the specific issue that will be discussed.

### **The Framework**

We are all familiar with the idea of a frame in regard to a building. The frame is the basic supporting structure, and virtually everything about the building is ultimately determined by the frame. The same is true of a discussion.

The framework of a discussion determines the structure or method of the conversation, which in turn shapes everything else. Unfortunately, most discussions of property rights issues commence with no established framework. The result is an unfocused exchange of thoughts and ideas, claims and counterclaims. With no agreed upon framework, anything goes.

To properly frame the discussion, we must agree on three things: the specific problem or issue we will discuss, the standard by which we will evaluate a policy to be good or bad, and the method for the discussion. If we can't agree on what we will discuss, the conversation will turn into a free-for-all.

The standard by which we will judge a policy or proposal is the most fundamental issue in framing the discussion. The standard will determine whether we regard a particular policy as good or bad. If we do not agree on the standard, then any discussion of facts is pointless because those facts will be interpreted and evaluated differently.

The method for the discussion involves two components: considering the full context and being precise. The full context involves considering alternatives (and their pros and cons), as well as the

long-term consequences of a policy. If we want to make the best decision, then we must consider what policy will achieve the standard in the long-term. To do this in an even-handed manner, we must put aside inclinations and biases and honestly consider the alternatives. If we reject certain types of solutions out-of-hand, then we are not honestly considering alternatives.

This requires precision in the use of words and facts. Many political debates are littered with clichés and ambiguity. But this simply clouds the issue and makes understanding difficult, if not impossible. Words convey thoughts and ideas. If the meaning attached to words is fuzzy and imprecise, then the meaning conveyed will be fuzzy and imprecise.

By making the framework explicit, we achieve agreement between those involved in the discussion. It establishes the ground rules for the discussion, by clearly stating both the goal and the method. Then, and only then, can a constructive conversation occur.

In reframing the discussion, we can turn enemies on an issue into potential allies. By finding a common goal, we are no longer adversaries debating different strategies, but allies seeking to solve a shared problem. In agreeing to the method, we establish the means by which a constructive conversation can occur.

Reframing a discussion is both an art and a science. There is a method for reframing (this is the science). Applying the method, however, often requires a little creativity (this is the art). If we are going to have a discussion, then we must be actively engaged with the other person. We can't rigidly follow a script but must listen and respond to what the other person actually says. We can follow certain principles to make this occur (the science), but the application can vary significantly depending on the other person (the art).

### **Identifying the Specific Issue to Discuss**

Often, discussions of property rights jump from issue to issue with no specific focus. The other person raises an issue, we address it, and then he raises another issue. It doesn't take long for the discussion to wander far from the initial issue. It is an intellectual version of "whack a mole." As soon as we address one point or claim, another is raised. Nothing good can come from this type of discussion.

Rather than allow this exercise in futility to occur, we should begin the discussion by identifying the specific goal to be achieved or problem to be addressed. And we should let the other person do this. If he is passionate about an issue, we will be most effective by addressing the source of that passion. To discover his goal or the problem he wants to eliminate, we must ask questions.

For example, if he wants to prohibit short-term rentals, we can ask him what problem he hopes to eliminate or prevent. He may offer several, in which case we should ask him which is most important. Let us say that he doesn't want "party houses" in his neighborhood.

Once this has occurred, we can express empathy (assuming that we sincerely empathize) and identify the topic to focus on: "I understand. Noisy neighbors can be a real pain. I have studied this issue and have found some interesting ideas on how to address party houses. Would you like to discuss this?" If he agrees, we have narrowed the discussion and identified the most important issue to address. If he agrees, then we have begun to frame the discussion. If he doesn't agree, further conversation is pointless.

### **Defining the Standard**

Most property rights issues arise from the perception of a problem. Some owners are using their property in a manner that others dislike, and so those others seek a remedy from government—they seek to make the offending property use illegal. This is what gives rise to zoning and other land-use regulations. This is the thinking that underlies regulations and prohibitions on short-term rentals

(Airbnb) and ride-sharing companies (Uber and Lyft). It gives rise to anti-discrimination regulations and minimum wage laws.

Both the perception of a problem and the proposed solution are ultimately determined by the standard one holds. One's standard will determine whether a particular property use is good or bad. And one's standard will determine how the good should be achieved or promoted and the bad discouraged or eliminated.

For example, opponents of short-term rentals (STRs) regard the practice as disruptive of neighborhoods. They hold that the character of a neighborhood is changed by STRs and maintaining the character of the neighborhood is their standard. Anything that threatens that character is bad and should be prohibited. Anything that protects that character is good and should be encouraged and supported.

This is true of every property rights issue. A policy that supports one's standard is good. A policy that does not support one's standard is bad.

Unfortunately, while the standard held by those who would violate property rights is often stated, those who seek to defend property rights do not address that issue. Indeed, they often accept that standard and then quibble over its application. But this is a recipe for disaster. Instead of bickering over the application of a shared standard, we must reject that standard and establish a new standard.

### **The Dominant Standard**

Politically, the dominant standard in America today is the group—the neighborhood, the community, the public, the nation. In virtually every political issue, the alleged interests of the group supersede the interests of the individual. And this view is held by both Democrats and Republicans, Liberals and conservatives agree on the standard, but only disagree on which group or groups are most deserving of protection and support.

For example, liberals argue that women, minorities, and the poor (among others) are the groups that should receive preference. Conservatives argue that Christians, business owners, and the middle-class (among others) are the groups that should receive preference. They disagree on the groups that they favor, but they agree that groups are what matter.

There is a cultural bias against the individual. A black who advocates conservative ideas is labeled an “Uncle Tom” and a traitor to his race. A gay individual who votes for Republicans is considered anathema to “the cause.” A Christian who supports gay marriage is often shunned by his peers. An individual who thinks differently from others in his group is a pariah. But this attitude isn't limited to certain blacks, gays or Christians. It extends to anyone who has the audacity to reject group-think and reach his own conclusions.

When an individual rejects group-think and acts on his own judgment, we are told that he is being selfish. He is putting his self-interest before the “public interest.” He is demonized and his motives are questioned. He is bad, and he must be forced to subjugate himself to the group. “We need a law,” the group chants, “to force the recalcitrant to comply.”

The dominant standard holds that the individual is subservient to the group, that the individual must sacrifice his self-interest to the “public interest.” And we see this in every property rights issue, from zoning to eminent domain, from occupational licensing to business regulations.

The alleged well-being of the group is achieved through the sacrifices of individuals. The result is steady parade of groups demanding that their interests be promoted at the expense of others. And when dozens or hundreds of groups are doing this, virtually all individuals are caught in the crossfire. If we want to end this orgy of pressure group politics, then we must reject the group—any group—as the standard.

### **The Individual as the Proper Standard**

Each individual has unique dreams, values, and goals. Each of us wants different things in life. For us to achieve our dreams, values, and goals, we must be free to take the actions that we deem appropriate (so long as we respect the same freedom on the part of others). We must be free to choose both our ends and our means. In the context of property rights, this means the freedom to create, use, trade, and dispose of material values as one judges best in the pursuit of sustaining and enhancing one's life.

Politically, the proper standard is individual rights. Morally, each individual has a right to take the actions necessary to sustain and enhance his life. The only proper purpose of government is the protection of this freedom.

When the rights of individuals are protected, then interactions between them are based on the voluntary consent of all involved. This is true of both personal and economic interactions. No individual, or group of individuals, has a right to force others to befriend him, hire him, trade with him, or interact with him in any way. This is true for males and females, blacks and whites, gays and straights. It is true for Christians, Muslims, Jews, and atheists. It is true for all individuals, and each one of us is an individual.

When individual rights serves as the standard, then the freedom of all individuals is protected. Each individual is free to take the actions that he believes necessary to sustain and enhance his life, and he is free to trade with those who wish to trade with him. Others, even an overwhelming majority, may not morally interfere with mutually consensual interactions.

If individual rights is our standard, then any policy, regulation, or law that restricts the freedom to create, use, trade, and dispose of material values is counter to that standard.

### **Establishing the Proper Standard**

If we wish to defend property rights, then we must establish individual rights as the proper standard. If individual rights is not the standard, then the alleged well-being of the group is. Which particular group—the neighborhood, the community, the nation, or the public—is merely a detail. If the group—any group—is the standard, then the individual will be forced to sacrifice his values and goals to the group.

Every violation of property rights uses the group as the standard. Zoning is justified on the grounds that it promotes a community's values and vision. Defenders of eminent domain claim that it promotes the "public interest." Occupational licensing is necessary, the argument goes, to protect consumers. We must ban short-term rentals, activists shout, to protect our neighborhoods. No matter the issue, those who would violate property rights use the alleged interests of some group to justify their plans and policies. If we wish to establish individual rights as the proper standard, then we must explicitly identify and reject the dominant standard.

There is certainly a cultural bias in favor of the group. But this bias can be overcome when it is made explicit.

While many, if not most, individuals mouth clichés about the need for individuals to sacrifice for the group, few actually enjoy doing so. They will support such policies when it is the other guy who must sacrifice, but they often object when they are called upon to sacrifice. They find it acceptable to inflict pain on others if done through a democratic vote, but few enjoy it when they are the victim.

A community or society cannot thrive and prosper if the individuals comprising it cannot thrive and prosper. And individuals cannot thrive and prosper if they are forced to sacrifice their goals and

values. When the individual is subordinate to the group, the well-being of individuals is regarded as irrelevant in both theory and in practice.

We may not always like or agree with the choices that others make. We may not approve of how they choose to use their property. But if we want the freedom to live and use our property as we choose, then we must respect and defend the freedom of others to do the same, even when we disagree with them.

Establishing the proper standard is crucial to framing the discussion. But the proper standard is meaningless if we don't consider the full context.

### **Understanding Context**

No matter our position on a particular issue, we possess a variety of ideas, values, experiences, and information that shapes how we think about that issue. This is our context, and it shapes how we process the claims and ideas presented by others. At the same time, others possess a variety of ideas, values, experiences, and information that shape how they process the claims and ideas that we present. This is their context, and it can differ significantly from our context.

In other words, each individual has a unique context. We each possess a unique combination of ideas, values, experiences, and information that shape how we think about a particular issue and process information.

When we disagree with others, it is because our contexts differ. They have different ideas, values, experiences, and information than we do. The difference in context is what creates the differences in our conclusions on a particular issue.

This does not mean that all contexts are created equal—they aren't. Some people evade facts that are uncomfortable. Some people hold nefarious values and find pleasure in inflicting pain on others. Some people have had horrible experiences and have drawn erroneous conclusions as a result. Some people accept as true information provided by dishonest sources. But whatever the vices or virtues of an individual, they possess a unique context. And if we wish to engage in a constructive conversation with them, we must recognize and accept this fact.

The fact that someone disagrees with us does not mean that they are evasive, dishonest, or evil. It means that they have a different context.

A key component to a constructive conversation is to recognize the differences in context and then bridge those differences. Persuasion is the process of moving someone closer to our context—bridging the difference in our contexts. It means providing them with new information, correcting their errors, and modifying half-truths that they have accepted. It also means being willing to accept new information, correct our own errors, and modify half-truths that we have accepted. If we want others to honestly consider our ideas, we must be willing to honestly consider theirs. Context bridging is the process of closing the gap between contexts.

### **Considering the Full Context**

If we want to make the best decision regarding a particular issue, then we must consider the full context—all of the relevant facts, information, ideas, and alternatives. And we must consider the pros and cons of each, including the long-term implications. In other words, we must look at the big picture, and not just the immediate problem and the proposed solution.

The policies that are enacted today have long-term consequences. Our children and grandchildren will be impacted by those policies, and if we want future generations to experience opportunity and prosperity, then we must identify the consequences of today's policy decisions.

A policy may address an immediate problem but cause greater problems in the future. For example, many cities have rent control laws that regulate what landlords may charge in an effort to

protect tenants from “greedy” landlords. Rental rates for protected properties are often substantially below market rates, which means that landlords must operate with little or no profit. This provides no incentive for developers to build new rental housing and discourages others from keeping housing in the rental market—they can’t make money. As a result, the supply for rental housing lags behind the demand in cities with rent control, which increases the price of housing that is not subject to rent control laws. Those with rent-controlled housing benefit, but others suffer from higher rents and fewer housing choices. The market is grossly distorted, but one must examine the issue from a long-term perspective to see the consequences.

As another example, minimum wage laws raise the pay of low-skill workers—if they have a job. Study after study has found that raising the minimum wage leads to a loss of jobs, particularly entry level and low-skill jobs—those who are more likely to be earning the minimum wage. And these are likely to be the first jobs that our children and grandchildren will have. Again, the market is distorted and the consequences aren’t immediately evident.

But these distortions, though well documented, fail to dissuade those who only look at the immediate benefits and fail to consider the full context. They see that rent control will keep their rent low today, or an increase in the minimum wage will give them a raise today, and fail to consider what will happen tomorrow.

In both of these examples, the policy addresses a problem in the short-term, but creates greater problems in the long-term. If we want to make good policy decisions today, then we must consider these long-term consequences.

### **Alternatives and the Full Context**

The dominant view in Texas and America today is that the alleged well-being of the group is the standard. If we wish to defend an alternative standard—the rights of the individual—then we must also identify and present alternative solutions to the problems purportedly solved by government controls and regulations. Alternatives are an important part of the full context, and if they are not identified and considered, then we may not choose the best course of action.

For example, preservationists want to protect historic buildings from demolition or modernization. And they seek to use government prohibitions and mandates to accomplish that goal. They seek to restrict the rights of property owners in an effort to protect and preserve old buildings. But there are alternatives that do not require the use of government power.

One alternative is to convince the property owner of the merits of protecting the building voluntarily. He could go so far as to attach an amendment to the deed that would require future owners to maintain the historical character of the building. Prospective owners in the future could accept that provision or refuse to buy the property.

Another alternative is for interested parties to purchase the property. They would then have the freedom to do as they wish with the building—they would be the rightful owner—without imposing their values and desires on others.

Of course, in many instances these alternatives will not be successful. A property owner may not agree to voluntarily protect his building. Or preservationists may not be able to raise the funds to purchase and restore a building. But the fact that such alternatives may not always be successful does not justify using the power of government to accomplish what can’t be achieved through voluntary means. If enough people value the building, then it should be easy to raise the necessary funds to buy and restore it. And if enough people don’t value the building, then a small group of noisy activists should not be permitted to use the power of government to impose their values on the rightful owner.

Many times in life, our goals or desires are thwarted by the decisions and actions of others. We may not get the job we desired or the raise we think we earned. We may not be able to afford our dream house because the asking price is too high. But our desires aren't a club with which to bludgeon others. A civilized society recognizes the freedom of each individual to pursue his own values, so long as he respects the freedom of others to do the same.

For example, consider alternatives to smoking bans. If consumers and employees want smoke-free environments, then they can take their patronage and employment to businesses that offer such. Businesses can choose to allow smoking or prohibit it. They can segregate smokers and non-smokers, and perhaps in ways that we can't imagine. They can do what they believe is best for their business, customers, and employees. Without smoking bans, individuals and businesses would be free to act on their own judgment in the pursuit of their own values and goals. And nobody would be forced to act contrary to his judgment. We may not always like the choices that others make, but if we want the freedom to make our own choices, then we must respect and defend the freedom of others to do the same, even when we disagree with their choices.

Just as we have a wide variety of choices in regard to restaurants, we could have a wide variety of choices in regard to policies regarding smoking. Just as we have a choice of which restaurants to patronize based on our personal values, whether it is cuisine, price, the level of service, or anything else, we could have a choice regarding smoking preferences. Instead, one policy is imposed upon an entire community when smoking bans are enacted.

In raising alternatives, we challenge those who would violate property rights to defend their position at the most fundamental level. They can no longer hide behind clichés and bromides. If they are unwilling to accept voluntary means for accomplishing their goals, then they must openly admit their willingness to coerce others to do their bidding. They must admit that they would rather use force than persuasion, a club rather than a syllogism.

Certainly, we may not always be able to identify alternatives for a particular situation. But it's not incumbent on us to solve every problem. What we must defend is the freedom of individuals and businesses to solve those problems. Free individuals—and only free individuals—do solve problems. And that is a fact that we can prove. (For examples pertaining to mail, libraries, mail delivery, roads, parks, and much more, see my book *Individual Rights and Government Wrongs*, available on Amazon.)

Businesses and individuals succeed by producing the values that others want and need. This is true whether the values pertain to food, health care, housing, transportation, energy, billboards, smoke-free environments, or any other value. When the demand for a value exists in sufficient quantity, someone (and often many someones) will seek to satisfy that demand. And they often do so in innovative ways that nobody could previously envision. The telephone industry serves as a telling example.

### **An Alternative Nobody Envisioned**

For seventy years, AT&T held a government protected monopoly on phone service in the United States. Many, including politicians, believed that telephone service would be best delivered by a single company. For example, a report in 1921 by the Michigan Public Service Commission stated, "Competition resulted in duplication of investment," and that state governments were justified to prohibit competition in phone service.<sup>1</sup> That same year, a report from the United States House of Representatives similarly concluded, "There is nothing to be gained by local competition in the

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1. Diane S. Katz and Dr. Theodore Bolema, "Crossed Lines: Regulatory Missteps in Telecom Policy," December 3, 2003, accessed May 1, 2016, <http://www.mackinac.org/6033>.

telephone business.”<sup>2</sup> In other words, nobody could envision an alternative to the way telephone service was being delivered at the time. And so, everybody was prohibited from offering an alternative.

During the decades of the AT&T monopoly, innovation was virtually non-existent. Consumers could not own their phone and could only rent equipment from the telephone company. It was illegal to modify telephone equipment, which even included a prohibition on putting a protective cover on the phone book! Telephones had few features, and consumers had virtually no choice in regard to service plans. The government protected monopoly did what it wanted, and consumers had no choice in the matter. There was nobody else to call, both literally and figuratively.

With competition prohibited, AT&T had no incentive to innovate. There were no competitors offering less expensive service plans. There were no competitors offering telephones with added features. And with no incentive to innovate, phone service and equipment remained stagnant for decades. For seventy years—nearly three generations—telephone service remained virtually the same because the social and political conditions for innovation did not exist. That began to change in the mid-1980s.

In the mid-1970s, the government filed anti-trust charges against AT&T. The federal government prosecuted the company for engaging in practices that the government itself had previously encouraged. And in the case of AT&T, the government had actually protected the company’s monopoly status by prohibiting competition. Ending the government protected monopoly was proper, but not through anti-trust prosecution. AT&T should have never enjoyed government protection from competition in the first place. The government should have simply repealed the legal prohibitions on competition and set the innovators free.

Ten years later, the AT&T monopoly was ended. The break-up of the telephone monopoly had almost immediate effects.

The first innovations in telephone service came in long-distance service. Within a few years of the breakup of AT&T’s monopoly, companies such as MCI and Sprint, along with hundreds of others, were offering long-distance service with a variety of plans. The new companies were charging 25 percent to 30 percent less than AT&T.<sup>3</sup> The success of the new phone companies is testimony to the fact that innovators were quick to respond to their freedom to offer new services and consumers were eager to exercise their freedom to choose.

During the decades of the telephone monopoly, innovators were a coiled spring kept harnessed by the prohibition on competition. But when that prohibition was lifted, the spring was released and entrepreneurs burst forth with creative energy.

It wasn’t long before consumers had other choices. Freed from arbitrary government restrictions, a multitude of manufacturers began offering phones with added features, such as call waiting, re-dialing, and answering machines. In the ten years after the break-up of the telephone monopoly, consumers saw more innovations than AT&T had introduced in seventy years. But the innovations were only beginning.

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2. Ibid.

3. William R. Greer , “Long Distance Lines: Making Right Choice,” *New York Times*, December 14, 1985, accessed May 2, 2016, <http://www.nytimes.com/1985/12/14/style/long-distance-lines-making-right-choice.html>.



Mobile telecommunications were first introduced in the 1940s. However, the mobile equipment was large, expensive, and had to be installed in an automobile or other vehicle. The available service area was very limited. In 1973, Motorola introduced the first handheld mobile phone, but it wasn't until the 1980s that a widely deployed cellular system was available in the United States.

During the 1990s, innovations in cellular technology began to accelerate. Second generation (2G) mobile phone systems were developed, which allowed for expanded features, such as texting and accessing media content. These new features gave mobile phones added popularity, with cell phone subscriptions increasing from about 5.2 million in 1990 to nearly 110 million in 2000.<sup>4</sup> Today, nearly every American household has a cell phone, and more than 40 percent of American households no longer have a land line.<sup>5</sup>

For nearly seventy years, the government effectively prohibited innovation in the telephone industry. We were limited to a land line telephone that did little more than make and receive phone calls. Today's smart phones offer features far beyond making and receiving phone calls. We can take photographs, send and receive email, listen to music, surf the Internet, and so much more. And we can do it from almost anywhere. Smart phone manufacturers have introduced more innovations in less than ten years than the AT&T monopoly introduced in seventy years.

### **The Lesson from Telecommunication**

There is a valuable lesson to be learned the history of telecommunication: We can't envision the values that free individuals will discover and create. But innovators and entrepreneurs must be free to act on their judgment if they are to discover and create those values.

Examples such as this are valuable in a multitude of property rights issues. For example, electricity and water are considered "natural monopolies," just as telephone service was for decades. Nobody can provide an alternative to the traditional way of delivering these services because competition is prohibited. But we have seen what happened when innovators were freed to create and deliver values in telecommunications—our lives improved immensely. Politicians and bureaucrats cannot envision alternatives. Innovators and entrepreneurs can and do.

While we cannot predict what innovators will do in regard to other issues, we can use examples like telecommunications (including cable television) and the Internet to demonstrate what can happen when individuals are free of government controls and regulations. (For more examples, see my book *The Innovators versus the Collective*.)

Often, when we defend a free market approach to an issue or problem, others will demand that we explain how the market will address the issue. But it is not our responsibility to provide detailed solutions, and this is particularly true if we aren't an expert in the relevant field.

For example, I am often asked how roads would operate if they were all privately owned. Most people envision toll booths at every corner if roads were privately owned. I respond that I don't know for certain, because I can't begin to envision what creative solutions road entrepreneurs and innovators will create. But I can point to a multitude of examples of private roads and how they operate as an indication of what might occur. And I can point out that many businesses provide free parking, while others charge, and then explain the reasons for this. In part, free parking is offered to

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4. "Cell Phone Subscribers in the U.S., 1985–2010," InfoPlease.com, accessed May 2, 2016, <http://www.infoplease.com/ipa/A0933563.html>.

5. "Drew Desilver, "CDC: Two of every five U.S. households have only wireless phones," July 8, 2014, Pew Research, accessed May 2, 2016, <http://www.pewresearch.org/fact-tank/2014/07/08/two-of-every-five-u-s-households-have-only-wireless-phones/>.

customers because it attracts customers. After making these points, I then address the history of telecommunications to illustrate what happens when innovators are free. And I can use other industries as examples as well.

This approach illuminates the fact that if we want to discover how road innovators (or innovators in any industry) will create values, then we must give them the freedom to show us.

### **Establishing the Full Context**

Most people want to consider all of the relevant information, as well as possible alternatives. They want to make good decisions. But if we don't make the goal of considering the full context explicit, they will make decisions based on limited or erroneous information or the short-term. They will not consider the full context.

If an individual is truly open to an honest discussion of an issue, then he will be willing to consider the full context. He will want to be informed. He will want to understand the long-term consequences. He will want to consider alternatives. And if he isn't, then nothing we say will change his mind or move him closer to our position.

Merely because someone disagrees with us is not evidence that they will not consider the full context. Their disagreement is a result of a different context. If he is willing to consider the full context, then he has opened himself to the possibility of new information and ideas. He has acknowledged, if only implicitly, that he is willing to add to or modify his context.

The easiest way to establish this is to be direct. We should ask: "Would you agree that it is important to consider the full context, including all of the alternatives? And would you agree that we must consider the pros and cons of each of these alternatives if we are to make the best decision?" Most people will answer in the affirmative.

At this point of the discussion, we have established the standard by which we will evaluate a policy, as well as the need to consider the big picture. But one more step is needed to frame the issue properly.

### **The Need for Precision**

Discussions of property rights issues (as well as most policy issues) are often cluttered with clichés, misrepresentations, and exaggerations. Left unchallenged, these tactics work to the advantage of the enemies of property rights. But when they are challenged, we can subject them to the bright sunlight of rational discourse, rather than allow them to lurk in the shadows like a mugger waiting to assault an unsuspecting individual.

Clichés depend on ambiguity and fuzzy definitions for their effectiveness. On the surface, they often sound appealing, and this works to the advantage of those who would violate property rights. They talk about protecting our heritage or improving the community's quality of life or protecting neighborhoods, and many find these terms appealing. But what do these ambiguous terms really mean?

Ambiguity can, by definition, be interpreted different ways. For example, "Tom walked his dog in pajamas" could mean that either Tom or the dog was wearing pajamas. In this example, the ambiguity is humorous. But when we are discussing serious issues, such as property rights, ambiguity isn't a laughing matter. It can make the difference between good policy decisions and bad. And bad policy decisions can destroy lives.

Too often, when an opponent of property rights uses a cliché, defenders of the right to property do not challenge the terminology. They do not demand clarity and precision. Instead, they often interpret the words in a positive way, ignoring the possible negative meaning. In doing so, they allow

the enemies of property rights to “smuggle” dangerous premises into the discussion. And that works to the advantage of those who would violate property rights.

Misrepresentations can occur in a multitude of ways. The most dangerous are those involving fundamental principles. For example, in an article about the proposed bullet train between Dallas and Houston, the *Texas Tribune* stated:

At the state Capitol, the bullet train represents the collision of two things that Republicans — who control Texas government — hold dear: private property rights and an unrestrained free market. And for two legislative sessions in a row, the free market has largely come out on top. The project has emerged relatively unscathed after bills aimed at hamstringing or killing it failed to get much traction.<sup>6</sup>

To claim that the bullet train represents the collision of property rights and a free market is to misrepresent both.

The right to property means the freedom to create, use, keep, trade, and dispose of material values. A free market is one in which individuals can act on their own judgment to create, attain, and trade material values. A free market cannot exist without property rights, and the protection of property rights requires a free market. In a free market, trade only occurs between willing parties, with each party trading and disposing of their property as they judge best.

But the plan for building the bullet train is an abrogation of both property rights and a free market. Texas Central, the company behind the train, proposes to use eminent domain to attain land from unwilling sellers. In other words, some property owners will be forced to sell their land, regardless of the owner's desires or choices.

According to the *Texas Tribune*, we must choose between property rights and a free market. But in truth, such a choice doesn't exist. We must choose property rights and a free market, or some form of government intervention. Good decisions are impossible when we are presented with false alternatives such as those offered by the *Tribune*.

Exaggerations typically occur by overstating the extent of a problem or downplaying demonstrably negative effects. One example comes from opponents of short-term rentals (STRs). Opponents like to portray STRs as nothing more than “party houses”—homes that are used to host raucous parties that disrupt neighborhoods. To combat this nefarious activity, opponents of STRs demand severe restrictions or outright bans.

In response, Austin has enacted some of the state's most restrictive regulations on STRs. But the facts demonstrate that STR opponents are grossly exaggerating the problem:

The city's [Austin] data on complaints about short-term rentals within Austin contradicts [resent claims]. In Austin, any time a citizen calls 311 or 911 and complains about a short-term rental, it is coded as a short-term rental complaint. In the four years prior to the adoption of the city's current ordinance, Austin issued zero citations against any licensed short-term rental owner or guest for violating the city's noise, trash or parking ordinances. The city's own study showed that short-term rentals produce fewer disturbance complaints than their long-term neighbors. Prior to adoption of the current ordinance, Type 2 short-

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6. Brandon Formby, “Texas values collide in fight over Houston-Dallas high speed rail,” *Texas Tribune*, October 24, 2018, <https://www.texastribune.org/2018/10/24/texas-values-collide-fight-over-houston-dallas-bullet-train/>, accessed November 21, 2018.

term rentals, of which the author [of a recent article] complains, accounted for a total of 23 noise and parking complaints citywide over a three-year period. To put that number in perspective, residential properties in Austin produce more than 17,000 code complaints a year.<sup>7</sup>

In other words, STRs produce a miniscule number of complaints compared to other homes. But the exaggerated claims of STR opponents often get more attention than the actual facts.

These tactics—clichés, misrepresentations, and exaggerations—are used time after time by the enemies of property rights. They depend on imprecision to influence voters and politicians because the facts and truth are not on their side. If we wish to defend property rights, then we must expose this sloppy thinking for what it is—an attempt to obfuscate the truth for nefarious ends. To understand this more clearly, let us look at three examples of terms that are often used but rarely (if ever) defined.

### **Discrimination**

To discriminate is to recognize that two or more things are not the same, and to then treat them differently. Despite the conventional wisdom that discrimination is inherently evil, we each discriminate in countless ways every day. We discriminate when we go to one restaurant or grocer rather than another. We discriminate when we buy one book or movie rather than another. We discriminate when we choose our friends, lover, and employer. We discriminate every time we make a choice.

If we choose indiscriminately, then we imply that our choices have no impact on our well-being and flourishing. It implies that there is no difference between befriending those who share our values and befriending those who would do us harm. We discriminate—make choices—based on what we believe will sustain and enhance our life.

The advocates of anti-discrimination legislation ignore the fact that the definition of discrimination is value neutral. The definition does not include a moral evaluation of whether a particular choice is good or bad. Yet, the advocates of anti-discrimination legislation want us to believe that discrimination is always bad. And ultimately, that means that the freedom to choose is always bad. So, they seek to eliminate freedom of choice in many areas of life.

Individual rights, including property rights, recognize and protect the freedom of individuals to act on their own judgment, so long as they respect the freedom of others to do the same. This includes the freedom to make choices on the basis of any criteria that we select, including criteria that are irrelevant or irrational.

As an example, individual rights protect the freedom of individuals to enter into relationships with whomever they choose, so long as all parties are acting voluntarily. If a business owner irrationally chooses to promote a man over a more qualified woman, he has a moral right to do so. It's not an issue of "women's rights." It is an issue of individual rights, and specifically property rights, applied within a specific context. The owner has a right to choose how his property will be used. And others have a right to accept or reject his choices.

Similarly, if an individual refuses to bake a cake for a gay wedding, it is not an issue of "gay rights" or "religious rights." It is an issue of property rights applied within a specific context. The

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7. Robert Henneke and Chance Weldon, "Make short-term rental policies on evidence, not anecdotes," *Texas Tribune*, December 15, 2017, <https://www.tribtalk.org/2017/12/15/make-short-term-rental-policies-on-evidence-not-anecdotes/>, accessed November 21, 2018.

owner has a right to choose how to trade and dispose of his property. He has a right to decide with whom he will trade and on what terms and conditions. And others have a right to accept or reject those terms and conditions.

In each of these examples, individuals have a moral right to act on their own judgment. That right doesn't come from their gender, sexual orientation, or their religious beliefs. It comes from their status as individuals. All individuals possess the same fundamental right—the right to live as they choose. And those rights mean that morally they can't be forced to act contrary to their choices, even if those choices are demonstrably irrational or widely unpopular.

Much of the animosity in contemporary politics arises from treating rights as a phenomenon that applies to groups rather than individuals. The result is a constant competition between groups to assert their "rights." Invariably, the "rights" of one group conflict with the "rights" of another group, and the actual rights of individuals are caught in the crossfire. This is another example of the group serving as the standard.

For example, anti-discrimination laws prevent individuals—employers, landlords, and others—from using their property as they choose. They are prohibited from using the criteria of their choosing when hiring, renting, or otherwise associating with others. Their right to property and freedom of association is denied under the guise of protecting the "rights" of minorities, gays, the disabled, women, and many others.

It is understandable that individuals do not want to be judged on the basis of irrelevant or irrational criteria. But we can't force individuals to treat others rationally, and any attempt to do so will only breed animosity. And we certainly can't have a civil discussion of the issue if we obscure the meaning of discrimination. All we do is muddy the waters, and that leads to bad decisions.

Imprecise thinking regarding "discrimination" has led to a plethora of laws limiting and controlling the use of property. Ambiguity has allowed property rights to be violated. And this is only one example.

### **Quality of Life**

Land-use and other regulations are often justified on the grounds that they will enhance a community's quality of life. This certainly sounds appealing. After all, who would be opposed to a better quality of life? But what does this term actually mean?

In any community, individuals will have a wide variety of interests, values, and visions. Some individuals like baseball and some like the ballet. Some like Mozart and some like Jay Z. Some are gay and some are straight. Some like parks and some prefer malls. We define quality of life—what it means to flourish—very differently. Yet, advocates of land-use regulations seek to impose one definition of quality of life on all individuals. They seek to impose the community's definition of quality of life—what it means to flourish—upon everyone. And real people—those who have a contrary view—must suffer when their personal definition differs from that of the community in which they live. They are forced to abandon their definition of quality of life and their view of flourishing in deference to that of the community.

It is understandable that a community wants a better quality of life for its residents. But that cannot be achieved by forcing individuals to conform to the community's standards and definition of quality of life. It can only be achieved when government protects the freedom of each individual to define quality of life by his own standards and to act accordingly. A crucial part of quality of life, no matter how it is defined, is the freedom of each individual to use his property in the manner he deems best. But when activists talk about improving a community's quality of life, they mean that they should impose the views of the community upon all individuals. They mean that their definition of quality of life should be forced upon others. They mean that their vision should supersede the

vision of the individuals living in that community. It means that the community can and should prescribe and proscribe how individuals can use their property.

Individuals cannot flourish when they are prohibited from pursuing the values that bring them joy and happiness. They cannot flourish when they must conform to the community's definition of quality of life rather than pursue their own.

Because quality of life is a fuzzy, undefined term, it is used to violate the freedom and property rights of real individuals in the name of promoting their quality of life. If we demand that the term be defined, we will expose it for what it really is—a massive power grab.

## **Heritage**

Advocates of historic preservation talk about preserving our heritage. They claim that the way to do this is to protect old buildings and old trees, usually through ordinances and other regulations. But a discussion of the issue must include a careful examination of what constitutes our heritage.

Heritage refers to that which is inherited or passed on to succeeding generations. And that is certainly true of old buildings and old trees. But are these buildings and trees the essence of our heritage? Or is our heritage something more fundamental?

In 1776, America declared its independence from Great Britain. Many brave men risked their lives, preferring to die in defense of individual rights, including property rights, rather than live under the tyrannical British government. Similarly, in 1836, Texans declared their independence from Mexico and took up arms to protect their freedoms, including the right to property. Individual rights is the true heritage of both America and Texas.

Property rights—the freedom to create, use, keep, trade, and dispose of values—are the practical application of individual rights. Property rights are the essence of America's and Texas's heritage. Property rights are a primary enabler of individual flourishing.

Yet, historic preservation is an attack on property rights. Preservation ordinances prevent owners from using their property as they deem best. Preservation ordinances prevent property owners from erecting modern buildings, demolishing protected buildings, and often prohibit the use of modern materials for maintenance or repairs. And this is successful because nobody, including the intended victims, demands precision. Nobody bothers to identify our heritage.

Such ordinances are possible because heritage is not defined. It is used ambiguously, and the violation of property rights is the result.

## **Establishing the Need for Precision**

As we have seen, clichés, misrepresentations, and exaggerations are often used by the enemies of property rights. When these tactics aren't challenged, invalid "facts" and nefarious premises are smuggled into the discussion. The result is decision making based on a false or erroneous context.

However, if we demand precision and practice it ourselves, we can shift the discussion. We can identify the meaning of clichés, correct misrepresentations, and expose exaggerated claims. We bring clarity to the discussion.

To do this effectively, we must be clear about the meaning of the words and terms that we use. It is counter-productive to demand that others define their terms when we can't do the same. The greater our clarity, the greater the contrast to the fuzzy, sloppy thinking of our opponents.

As an example, consider a discussion in which the supporters of a land-use regulation claims that he simply wants to protect the quality of life of his community. If we ask him to define that term, he will most likely offer something vague, such as, "The things that are needed to live a happy life."

Most people would accept a definition like this, but if we point out that individuals want different things to live a happy life—that they define quality of life differently—we have shifted the discussion to a more fundamental issue.

Rather than accept this vague term and proceed with a debate over whether the regulation will or will not promote the community’s quality of life, we have raised a more fundamental issue: If individuals define quality of life differently, why should one definition be imposed on the entire community?

Our goal in demanding precision is not to be obstinate or make the other person look foolish. Our goal is clarity. If we aren’t clear about the meaning of a word or term that the other person uses, it is appropriate to ask for a definition. If we aren’t clear, it is likely that others aren’t clear either.

To establish the need for precision, we need only ask if the other person agrees that we should avoid fuzzy definitions, misrepresentations, and exaggerated claims. If he cannot agree to this, then further discussion is pointless.

Clichés, misrepresentations, and exaggerations are half-truths. There are elements of truth within them, which explains their effectiveness. But if we want to have a constructive conversation and make the best decision, half-truths are insufficient. We need the whole truth. We need to consider the full context, and that requires context bridging.

### **Context Bridging**

Context bridging is the process of closing the gap between our context and that of the other person. It means adding to the information they know, subtracting false facts and ideas, and modifying half-truths.

If we have established the specific issue that we will discuss, identified the standard by which we will judge a policy, and agreed on a method for the discussion, we have made great headway in having a constructive conversation. We have already shifted the other person’s thinking to embrace a broader context.

Once the discussion begins, we should summarize our position. We don’t want to launch into a long monologue in which we overwhelm the other person with facts and ideas. A few sentences are all that is necessary to provoke interest and start the discussion. A few examples:

I agree that “party houses” are disruptive to a neighborhood. But there are already appropriate laws on the books that prohibit loud parties and disruptions to a neighborhood. Rather than penalize responsible owners, we should crack down on those who create nuisances.

I agree that a family that must spend 30 percent (or more) of its income on housing is struggling. But if we want to make a good policy decision and promote affordable housing, we must look at everything that contributes to this. And there are two primary factors: one’s income and the cost of housing.

I agree that an individual can’t support a family making minimum wage. But I think that it’s important to address why an individual is trying to support a family when he is making minimum wage.

No matter the facts that we present and the passion that we exude, we will seldom change someone’s mind in a single conversation. Our context was not formed quickly, and we should not expect others to understand and embrace a different context quickly. Our goal should be to move

them closer to our position. This is a process that can take a multitude of baby steps as we add to, subtract from, and modify the other person's context. This takes time.

Often, when we disagree with others, we take the attitude that "I am right, and you are wrong." And when passions run high, as they often do in political issues, our attitude can come across as "I am right, and you are an idiot." And very often, the other side has the same attitude. This is not a recipe for a constructive conversation.

We can't have a constructive conversation if we take the attitude that we can't learn anything from the other person. A constructive conversation requires all parties to be willing to listen to and consider the views of others.

This doesn't mean that we should regard all views and opinions as equally credible or valid. There are many evil ideas—such as Marxism and racism—in the world, and we should not give them any semblance of credibility. But individuals can reach erroneous conclusions through honest errors. Merely because someone disagrees with us on a particular issue is not evidence that they are evil.

We will be much more effective in persuading others if, rather than being adversarial, we approach the discussion with empathy for the other person's concerns.

### **Identifying Legitimate Concerns**

It can be easy to assume that those who disagree with us on an issue have nefarious motivations. If they support a policy that would violate property rights, we might assume that they are Marxists intent on abolishing all private property. But more often than not, our assumptions are incorrect.

Rather than make assumptions, we should try to identify legitimate concerns that the other person may have. We may not agree with the policy that they support, but we may find that we can empathize with the problem they seek to address.

For example, they may be concerned about short-term rentals that turn into "party houses." Few people want to live near a property that routinely hosts loud parties. We may not agree with their proposal to ban short-term rentals, but we can empathize with their concern.

Or, they may be concerned about the demolition of historic buildings. If we are a student of history, we probably appreciate such buildings and don't like to see them torn down. We may disagree with a proposal to prohibit the demolition of certain buildings, but we can empathize with the desire to preserve and restore historic structures.

In these examples, and countless others, those who would violate property rights often have legitimate concerns. They want to protect or achieve a value that we may share with them. When we identify that shared value, we can become allies to achieve it, rather than adversaries who disagree over a particular policy.

Indeed, a primary purpose of reframing is to turn adversaries into allies. Allies are much more open to new ideas, particularly when we have explicitly identified our standard and the problem we seek to address.

Finding a shared value or goal is a crucial and invaluable step in engaging others. Sharing opinion stories is another.

### **Opinion Statements vs. Opinion Stories**

When I was a young man, I often went to my father for advice. His advice usually took the form of, "If you were smart..." Over time, I sought his advice less and less because the implication was that if I didn't follow his advice, then I wasn't being smart. Instead of helping me think through the problem or issue, my father told me how I should act, what I should do.



Unfortunately, when we are trying to persuade others, we often take my father's approach. We tell others that they should read a particular book and watch a particular movie. These are opinion statements, and they are seldom effective. They simply inculcate resistance to our suggestions. And that was my response to my father.

However, if my father had said something like, "When I was your age, I faced a similar problem and here is how I thought it," I would have been much more intrigued. I would have been receptive to his story about how he addressed the problem. He would have shared an opinion story, and it would have been much more effective.

An opinion story may very well deliver the same advice as an opinion statement. But the method is much different. Instead of telling the other person how he should act (you should read this book), we are telling a story about how we reached a conclusion or the impact that something had on us.

Consider the above as an example. Instead of telling you that you should use opinion stories rather than opinion statements, which would be an opinion statement, I told you a personal story. You can probably relate to the story to some degree, and thus it will likely have a greater impact on you.

While personal stories can be very effective, we must exercise some care when choosing stories. A story that others can't relate to may simply push them further away from our position. For example, some opponents of the proposed bullet train between Dallas and Houston have argued that the rail line may prevent them from shooting feral hogs on their property. While this is true, and it is a deeply personal issue to those effected, many (particularly urban Texans) cannot relate to the damage caused by feral hogs. Urban Texans may view such stories as the rantings of a crazy redneck. However, if the story focused on the loss of freedom to use one's land as one chooses, urban Texans could relate. And this is particularly true if the story is related to property rights issues that urban Texans face.

### **Persuasion is an Art and a Science**

Despite what many on the political left seem to believe, persuading others isn't a matter of hurling insults, yelling louder, or making arbitrary claims. Such tactics may appeal to one's allies, but they do little to convince others. We reject the content of the left's political policies; we should reject their methods as well.

Persuading others is both an art and a science. There are processes that we can use that help us have constructive conversations, even with those who disagree with us. This is the science. But we cannot apply those processes in a robotic manner—we must adopt them to our audience. We must respond to and engage with those we are trying to persuade. This is the art.

Persuading others is much like sales. When we are trying to persuade others, we are attempting to "sell" them on our ideas. And the act of selling is an attempt to persuade others to take a particular action.

But the best salesmen first seek to understand the customer's needs and desires. What does the customer want to gain or alleviate? Only then can the salesman help the customer make a wise purchasing decision.

Consider your own experiences with salesmen. Do you prefer high-pressure salesmen, or those who take time to ask questions, listen to your answers, and then explain the options available? Do you want to be told what to do, or do you want to obtain the information necessary to make a good choice? Good salesmen bridge the difference between their context and ours.

Whether we are selling a material value—a car, stereo equipment, or a house—or an intellectual value—ideas—the principle is the same. If we want to persuade others, we must help them make the best decision for them. We must bridge the gap between their context and ours.

When we enter a store to purchase a product, we possess a certain context. We have a need or desire. We may have done some research to learn what products might satisfy our need or desire. Indeed, with the Internet, it's never been easier to research products. We can read customer reviews, as well as those of experts. But those reviews may be objective or biased, they may be based on facts or they may be based on emotions, they may consider the full context or they may only consider selected facts.

If we want to make the best purchasing decision possible, then we welcome a salesman who will help us. We welcome a salesman who listens to our concerns, corrects our misunderstandings, and adds to our knowledge.

When we are trying to persuade others, we are intellectual salesmen. If you don't like high pressure sales tactics, then don't use them when trying to persuade others.