



Just Compensation for Greyhound Owners is Not Optional, it is Constitutional!

By Jeff Kottkamp

The longstanding view that government cannot take your property, without fairly compensating you for that property, dates back to the Magna Carta. This foundational principle can be found in Blackstone's "Commentaries on the Law of England" as well as in Sir John Locke's "Two Treatises on Government".

The writings of Locke, in particular, heavily influenced our Founding Fathers. Therefore, it is no surprise that Locke's property rights views found their way in to the Fifth Amendment to the U.S. Constitution which proclaims that no person shall "be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

In light of this bedrock legal principle, the State of Florida must now deal with the legal consequences of passing the constitutional amendment banning greyhound racing. When the amendment is fully implemented up to 10,000 people will lose their livelihood and up to 15,000 racing greyhounds will be retired. All of the property used in the greyhound racing industry (including the racing dog themselves) will be rendered valueless as a result of the passage of the amendment.

In 2015, the U.S. Supreme Court in *Horne v. Department of Agriculture* held that the Takings Clause of the Constitution doesn't just apply to real property---it also applies to personal property. This means that racing greyhound dog owners are entitled to "just compensation" for their dogs. Greyhound race tracks are entitled to just compensation for their tracks, grandstands and tote boards.

Greyhound kennel operators are entitled to just compensation for their kennels. When the state puts someone out of business---there are financial consequences.

The State of Florida has been down this path before. When the voters passed a constitutional amendment in 1994 to ban net fishing more than 15,000 full net fishers were put out of business. Realizing its financial obligation to the fishermen, the Florida Legislature passed the "Net Ban Assistance Program" which included \$20 million to buy back nets, millions of dollars for job training, and millions more to compensate fisherman for lost income.

Eight years later the voters of Florida passed the "Pregnant Pig" amendment which prevents confinement of pigs during pregnancy. Steve Basford, one of two pig farmers in Florida that was essentially put out of business by the amendment filed suit to recover compensation for his personal property that was rendered useless when the amendment passed. Ultimately, the State of Florida paid Mr. Basford more than \$1 million as just compensation for his losses.

Now the state has an obligation to compensate racing greyhound owners and others financially harmed by passage of the greyhound amendment. Just compensation for the taking of property is a longstanding legal principle in our country. It is not optional---it is Constitutional.

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How to Pay for a Greyhound Compensation Fund

- I. Cardroom supplement money
 - a. 2018/19 cardroom receipts \$172 million
 - b. 2017/18 cardroom receipts \$168 million
 - c. 2016/17 cardroom receipts \$157 million
 - d. Three year average \$166 million
 - e. Statutory required 4%=\$6.6 million/year

- II. Slots
 - a. 2018/19 revenue \$8.2 billion (\$575 million net)
 - b. 2017/18 revenue \$8.2 billion (\$551 million net)
 - c. 2016/17 revenue \$8.4 billion (\$550 million net)
 - d. Three year average \$8.27 billion (\$559 million net)
 - e. 1% of net revenue set aside=\$5.6 million/year

- III. Intertrack/Simulcast
 - a. 2018/19 revenue \$105 million
 - b. 2017/18 revenue \$134 million
 - c. 2016/17 revenue \$143 million
 - d. Three year average \$127 million
 - e. 4% of revenue=\$5 million/year

- IV. State savings as a result of passage of amendment
 - a. State lab drug test saving \$2 million/year
 - b. State workforce savings \$2 million/year

- V. Money available to create a greyhound compensation fund
\$19.2 million/year

- VI. 10 year fund for compensation and retraining
- VII. 4% of fund to Florida Greyhound Association to administer