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PROSPERITY

INTERNATIONAL PROPERTY RIGHTS INDEX 2025

FROM RULE OF LAW TO RULE BY LOBBY: **THE BATTLE FOR PROPERTY RIGHTS IN COSTA RICA**

CASE STUDY**LUIS E. LORÍA¹ AND ESTER MÉNDEZ²***Authors*

"Whenever the Legislators endeavour to take away, and destroy the Property of the People, or to reduce them to Slavery under Arbitrary Power, they put themselves into a state of War with the People, who are thereupon absolved from any farther Obedience..."

—John Locke³

1

INTRODUCTION: PROPERTY RIGHTS, CIVILIZATION, AND INSTITUTIONAL DEVELOPMENT

The intimate relationship between private property and the progress of civilization has long been recognized by classical and modern thinkers alike. Ludwig von Mises asserted unequivocally that *"private property is inextricably linked with civilization"* (von Mises, 1963, p. 264). For von Mises, the recognition and protection of private property serve as the foundation of social cooperation and economic calculation, without which modern civilization would be impossible. This insight aligns with the Lockean tradition, in which property lies at the heart of political society. John Locke argued that the primary reason men enter into society is *"the preservation of their Property,"* and when legislators seek to expropriate or destroy that property, they enter into a *"state of War with the People"* who are thereby released from obedience (Locke, 2000, p. 412). Thus, from the perspective of both Mises and Locke, property rights are not a peripheral concern but the very essence of civil order and legitimate political authority.

Building on these philosophical foundations, institutional economists have emphasized the centrality of property rights in shaping economic outcomes. Douglass North observed that the specification and enforcement of rights are inherently political processes: *"property rights and hence individual contracts are specified and enforced by political decision-making"* (North, 1990, p. 48). The multiplicity of interest groups forces legislators into coalitional bargains, which in turn structure the evolution of institutions (North, 1990, pp. 49–50). In this way, property rights become both the product and determinant of political arrangements, a recursive relationship that explains institutional persistence and change.

Historically, constitutional breakthroughs such as Magna Carta signaled the first constraints on arbitrary expropriation, marking the emergence of a legal framework for property security. Rosenberg and Birdzell (1986) note that the Magna Carta institutionalized the principle that subjects were entitled to enjoy property free from seizure by the Crown, laying a foundation for the West's economic transformation. More recent scholarship has reinforced the argument that inclusive economic institutions require secure property rights. Acemoglu and Robinson (2012) stress that inclusivity demands *"secure private property, an unbiased system of law, and a provision of public services that provides a level playing field"* for contracting, entrepreneurship, and occupational choice (p. 74).

Finally, the political dimension of property rights is inextricably linked with personal freedom. Friedrich A. Hayek (1944) warned that *"the system of private property is the most important guaranty of freedom, not only for those who own property, but scarcely less for those who do not"* (p. 115). By limiting arbitrary state power, property rights extend the domain of individual autonomy and protect against coercion. The convergence of these perspectives—classical, liberal, and institutional—underscores the enduring lesson that property rights are the cornerstone of both economic prosperity and political freedom and highlight the need for defending it against potential threats.



1. Luis E. Loria, Founding President, IDEAS Labs, corresponding author: lloria@ideaslabs.org
2. Ester Méndez, Senior Policy Analyst, IDEAS Labs.
3. Locke, John. (2000). Two treatises of government. Cambridge, UK: Cambridge University Press. (Original work published 1690).



2

COSTA RICA'S REPUTATION AT RISK

Costa Rica has long been regarded as a beacon of democratic stability and institutional strength in Latin America. However, in 2025, the introduction of Bill No. 24.640, *Ley para la Buena Gobernanza y la Modernización para la Propiedad en Condominios* (Bill for Good Governance and Modernization of Condominium Property) revealed serious threats to the integrity of property rights and the rule of law. Promoted by a coalition of politically connected real estate developers, the bill seeks to reshape condominium governance in ways that undermine small property owners' rights.

Costa Rica's democratic reputation is grounded in its constitutional guarantees of property and its adherence to the rule of law. For decades, international observers have regarded the country as an outlier in a region plagued by weak institutions, political instability, and recurrent property expropriations. Since the abolition of its army in 1948, Costa Rica cultivated a self-image of exceptionalism. This image, however, has increasingly come under pressure. Rising corruption scandals, lobbying scandals, and legislative capture have revealed cracks in what once seemed a solid institutional edifice.

Bill No. 24.640 is a striking example of policy-making captured by narrow interests. While presented as a "modernization" of condominium law, the proposal embodies the hallmarks of extractive policymaking: privileging elites, excluding key stakeholders, and undermining fundamental rights. The fact that such a bill could advance as far as it did without meaningful public debate speaks volumes about the vulnerabilities that exist even in seemingly strong democracies.

This paper examines the origins of the bill, the exclusionary legislative process that facilitated it, the specific threats it poses to constitutional protection, the civic mobilization it provoked, the broader implications for Costa Rica's institutional trajectory, and the lessons that emerge for safeguarding democracy in the face of crony capitalism. In doing so, it situates the episode within a longer tradition of thought on property rights as the foundation of liberty, drawing on John Locke, Friedrich A. Hayek, Douglass C. North, and Daron Acemoglu, among others.

3

THE RISE OF CONDOMINIUMS IN COSTA RICA

The concept of condominium property in Costa Rica traces its roots to the mid-20th century when urban expansion and demographic growth began to reshape the country's real estate landscape. As cities like San José experienced increased density, developers and urban planners sought innovative solutions to accommodate growing populations without sprawling into fragile ecological areas. This led to the introduction of multifamily developments—first in the form of basic apartment complexes, and eventually as structured condominium regimes.

Over the past two decades, condominiums have proliferated in Costa Rica, particularly in urban areas (Greater Metropolitan Area) and in coastal areas. For many middle-class families, condominiums represent an affordable housing solution with security, communal spaces, and access to amenities. For foreign retirees and expatriates, condominiums provide both investment opportunities and stable living arrangements under the promise of strong legal protection.

This boom created a complex ecosystem of actors: small property owners, real estate developers, condominium administrators, lawyers specializing in property and registry law, and the financial institutions that financed these developments. Governance rules became central to balancing these interests. Owners relied on legal certainty to protect their investments and everyday quality of life, while developers and administrators sought flexibility and continued control over decision-making.

The growth of condominiums also altered the demographic and political landscape. By 2025, over 500,000 Costa Ricans lived in condominiums, which means that the legislative changes under consideration would directly affect 10% of the Costa Rican population. This sheer scale underscores why Bill 24.640 would have broad social implications.

EVOLUTION OF THE LEGAL FRAMEWORK OF CONDOMINIUM PROPERTY

In 1998, Costa Rica formally established the legal framework for condominiums with the passage of the *Ley Reguladora de la Propiedad en Condominio* (Law Regulating Condominium Property). This law articulated the rights and responsibilities of individual unit owners, set forth the requirements for declaration and registration of condominium regimes, and outlined the role of homeowners' associations in governance.

Historically, the Costa Rican condominium regime emphasized collective decision-making and the protection of minority owners. Major changes to the common features or administration of the property required broad consensus, reflecting a tradition of legal certainty and inclusivity. This framework, while not without its challenges, contributed to the emergence of a robust real estate market for different purposes, ranging from residential and commercial to industrial and free trade zones. There are no restrictions for the ownership of condominiums in terms of nationality.

The Costa Rican Condominium model was inspired by the American model of condominium property, which developed in response to rising construction costs and changing lifestyles that prioritized convenience and community amenities. In the U.S., condominiums rapidly became a popular form of ownership, especially in metropolitan centers and vacation destinations. The legal structure allowed individuals to own a private dwelling unit while sharing ownership and maintenance duties for common areas—such as lobbies, pools, and recreational facilities—through homeowners' associations (HOAs).

Over time, the U.S. system evolved to grant significant autonomy to HOAs, often with broad discretionary powers. In Costa Rica's system, like that of the U.S., the ownership of condominium property grants individual titles to units and undivided co-ownership of common elements. The requirement of high threshold of owner consent for structural changes or bylaw amendments reinforce the legal certainty of this type of property.

BILL NO. 24.640: CONTENTS AND THREATS

A first draft of the bill, tailored to the needs of large real estate developers, was prepared by their corporate legal advisors and legislative lobbyists, and, after a series of *mesas de trabajo* (workshops), was formally presented to Congress by legislator Daniela Rojas Salas (PUSC⁴), who has championed the initiative, with the support of the signatures of eight other deputies from different political parties, framed as a modernization effort. Yet, its provisions threaten property rights in, at least, three concrete ways:

1. Registry Modifications without Consent: The bill allows registry modifications of condominiums without requiring the consent or appearance of owners before the National Registry. This effectively reduces owners from active decision-makers to passive subjects of changes imposed by developers or administrators.

2. Decision-Making without Consensus: The bill authorizes decision-making processes that impose financial or governance consequences on property owners without requiring majority or consensus approval. This provision would enable a small coalition aligned with developers to impose decisions on unwilling owners, eroding democratic governance within condominiums.

3. Retroactive Application: Perhaps most troubling, the bill proposes retroactive application. Property owners who had purchased under one set of rules would suddenly find themselves governed by new rules. Retroactivity undermines legal certainty and erodes trust in the stability of contracts, a principle at the heart of modern property law.

4. Partido Unidad Social Cristiana.



The National Registry's technical review highlighted multiple inconsistencies, including risks to due process and constitutional protections. Its warnings underscored that the bill's problems were not merely political but rooted in poor legislative design.

Other troubling reforms included in the bill are:

- **A change of the nature of the condominium law to public order legislation**, thereby invalidating any regulations that conflict with them, irrespective of whether a supermajority or unanimous vote has been conducted, or whether a private agreement or contract exists.
- **Flexibility in the quorum requirements for assembly meetings to take place and the imposition of regulations to lower voting thresholds for making relevant decisions** that alter the fundamental nature of condominium private property rights.
- **New Legal Personality for the condominium property**, a legal shift that will treat condominiums as a subject with rights and obligations, in contrast to an object. This change will have direct and indirect implications for owners, such as additional fees, taxes, and civil responsibilities.
- **The union or combination of different condominiums**, regardless of the type, location, amenities, etc. Once a combination of properties is made, the coefficient of property that the owners have will also change, and with it every aspect of the rights and obligations.
- **All current and future condominium properties would be modified by the changes to the Condominium Law**, which creates significant legal uncertainty because it touches upon property rights, the autonomy of will, and the economic rights enshrined in the Costa Rican Constitution: *"By applying the condominium property regime, it will be understood that both the original owner of the property subject to this regime, as well as future owners of the subsidiary properties that are generated, voluntarily accept the limitations to property rights imposed by this law and by the condominium and administration regulations."*

6

CONSTITUTIONAL AND LEGAL CONCERNS

Legal experts quickly identified profound constitutional infirmities in the bill. Dr. Rubén Hernández-Valle, a renowned Constitutional Law expert and academic, stressed that permitting registry modifications without owner consent violates due process. The principle of legal certainty is compromised by retroactivity.

The right to property, enshrined in the Constitution, is undermined by authorizing decisions that impose new burdens without the approval of those affected. In a written statement presented before the Committee on Legal Affairs of the Legislative Assembly, Hernández-Valle explained:

"However, as noted above, Article 27 introduces a substantial modification to the majorities required for various decisions taken by General Assemblies of Condominium Owners, which could be tainted by unconstitutionality due to its effects. In certain cases, its application would allow for the introduction of restrictions on property rights of condominium owners without their express consent.

(...)

In this concrete case, the potential application of Article 27, as proposed in the current reform, could violate the property rights of condominium owners due to its effects, as it could serve as a vehicle to introduce restrictions not consented to by them on their property rights. This would constitute a clear violation of Article 45 of the Costa Rican Constitution."

The National Registry concurred, noting that the bill's provisions risk contradicting constitutional principles and destabilizing ownership rights. Its analysis warned that granting automatic legal personality to condominiums without clear mechanisms creates ambiguity. Together, these criticisms reinforced the conclusion that the bill is unconstitutional, confiscatory, and harmful to both domestic and foreign investors⁵:

"Regarding the highlighted elements of the proposal, it is considered that they violate a constitutional principle of property, since the modification of a real right cannot be allowed without the appearance of its owner. In other words, coefficients and value percentages cannot be altered without the presence of the owner of the subsidiary property." And that "It must be considered whether the condominium is a subject or an object—it cannot be both. A subject may or may not possess assets. If it is deemed a subject, it must be resolved whether its assets are in commercial circulation or subject to restrictions."

5. Registro Inmobiliario Nacional, DRI-142-2025.

In a similar vein, the Costa Rican Condominium Owners Association has also been outspoken against the proposed reforms⁶:

“Law 7933, enacted in 1999, established a robust framework for condominium ownership, allowing for the development of more than 5,300 condominiums. The legislation enacted on this matter, as is customary in a state governed by the rule of law, has been grounded in the principles of autonomy of will, legal certainty, non-retroactivity of law, and the inviolability of private property rights. This bill directly undermines each of these principles. One of the fundamental pillars of the current law has been the unwavering respect for private property rights, which this bill seeks to subject to majority decision-making. Moreover, all proposed modifications to existing condominiums would be applied retroactively and without the owner’s involvement, simply for the purpose of registration.”

Along the same lines, DENTONS Costa Rica, the global law firm, noted that, in many cases, individuals are compelled to choose this form of ownership to share security expenses (in response to rising insecurity) and to provide controlled recreational areas for their families, but that *“if this bill is approved, it would place these individuals back into a state of physical insecurity, generate legal uncertainty, undermine investments, and violate constitutional rights (non-retroactivity of the law, property rights, principle of legality, freedom of will, among others)”*. After a thorough analysis of the bill, their *“GENERAL RECOMMENDATION: Archive the bill, unless provisions are included that respect private property and eliminate any retroactive effects.”*

In sum, constitutional and legal experts have cautioned both the Congressional Committee and the public about the potential negative effects of this reform. They have argued that the bill, if passed, would lead to increased insecurity, legal uncertainty, and weakened protections for investments and constitutional rights, such as property rights and the principle of legal non-retroactivity.

6. Asociación de Condóminos de Costa Rica, Oficio ACCR-2603-2025.



7

A CLOSED AND CAPTURED LEGISLATIVE PROCESS

The way Bill 24,640 has advanced is as controversial as its content. Legislators claimed to have engaged in broad consultation during the preparation of the original text, but the reality is starkly different. IDEAS Labs⁷, the Costa Rican Condominium Owners Association⁸, and numerous experts⁹ were excluded from the legislative “workshops”.

Instead, the process was dominated by developer-aligned administrators and the Consejo de Desarrollo Inmobiliario (CODI)¹⁰. Meetings were arranged selectively, often behind closed doors, and the outcomes reflected the priorities of developers rather than those of the broader condominium community.

Professional lobbyists, retained by the developers, maneuvered aggressively to silence opposition, as denounced by Loria¹¹. Testimony critical of the bill was sidelined, delayed, or actively obstructed during the sessions of the Legal Affairs Committee in Congress¹².

This episode highlighted a deeper crisis of democratic accountability. The principle of transparent, participatory policymaking—central to Costa Rica’s political culture—was eroded. Increasingly, policymaking has followed the interests of insiders rather than inclusive deliberation. The bill has revealed how quickly the rule of law could give way to the rule of lobby.

7. For more information about IDEAS Labs, please refer to: ideaslabs.org/.
8. For more information about the Costa Rican Condominium Owners Association, please refer to: asocondocr.org/.
9. Including the DENTONS Costa Rica: dentons.com/es/global-presence/latin-america-and-the-caribbean/costa-rica.
10. For more information about the Consejo de Desarrollo Inmobiliario (CODI), please refer to: codicr.com/.
11. Loria, Luis E. “Condominios, protección de pequeños propietarios y lobby legislativo”, published by Delfino.cr (03/13/25): delfino.cr/2025/03/condominios-proteccion-de-pequenos-propietarios-y-lobby-legislativo.
12. Loria, Luis E. “Testimony of Luis E. Loria before the Legal Affairs Committee of the Legislative Assembly” (04/23/25): youtu.be/K8XX3Xf_6EA.

CRONY CAPITALISM IN ACTION

The introduction of Bill 24.640 illustrates the dynamics of crony capitalism. In theory, policy-making should balance competing interests in pursuit of the common good. In practice, politically connected developers seek to reshape the rules of the game to their exclusive benefit. Rather than fostering fair and balanced relations among stakeholders, their approach entrenches and expands their privileges.

The coalition behind the bill was revealing. CODI, representing the country's largest developers—administrators closely tied to developer interests—and a professional lobbying firm aggressively pressed for passage. Their aim was not modernization for all but the reconfiguration of condominium governance to weaken small owners and empower developers.

As Loria argued in earlier critiques, Costa Rica has seen a gradual erosion of neutrality in its institutions. Once a model of impartiality, the state increasingly risks becoming a vehicle for redistributing benefits to powerful groups. Such practices undermine equality before the law and public trust. When rules appear tailored to elites, citizens lose confidence in the fairness of institutions. In Loria's words:

"Freedom is not only the ability to make choices, but also the ability to do so in a context of legal certainty and equal opportunity. Costa Rica now faces a critical crossroads: it must choose whether to strengthen the rule of law and guarantee the protection of property rights, or to continue allowing private interests to capture political power and weaken institutions."

A LEGAL MATERNITY DISPUTE IN CONGRESS¹³

What is the legal maternity dispute about? On one side, a lawyer by the last name Sandoval, who introduces herself in various spaces as overseeing the "legislative lobbying" of the large real estate developers, claims maternity of the bill, referring to it as "her baby." On the other side, Congresswoman Daniela Rojas, in the hearing that the Legal Affairs Committee granted to Loria to address the bill—held on Wednesday, April 23, 2025—clearly upset, stated that she was the true mother of the bill and added, quite casually, that Ms. Sandoval is none other than an *ad honorem* advisor to her office.

Beyond the obvious conflict of interest—a topic worthy of its own case study—this episode reveals how the political game can turn into a legislative soap opera, where the interests of big private capital sneak in through the back door, are dressed up as technical proposals with the help of legislative accomplices, and are kept in the shadows until the moment comes to present them as "*legitimate offsprings*" before public opinion.

The criterion for supporting reforms cannot depend on who signs them or who nurtures them financially or politically. Reform proposals must be assessed objectively, based on their technical merit and expected impact. Some policies deserve recognition, others, our rejection.

What is clear, however, is that all must be subjected to public scrutiny. As citizens, we must not give in to personal political whims or potential hidden business plans that aim to benefit a few at the expense of the majority.

It is most unfortunate that, while in Congresswoman Rojas' office they squabble over the symbolic maternity of this harmful bill—which threatens the property rights of hundreds of thousands of Costa Ricans living in condominiums—the other members of the Legal Affairs Committee, the candidates for the Presidency of the Republic (2026–2030), and the leaders of the country's main business chambers, prefer to remain silent when asked about their position on this regulatory monstrosity, which should be buried without further delay.

13. Loria, Luis E. "Disputa de maternidad en la Asamblea Legislativa", published by Delfino.cr (06/12/25): delfino.cr/2025/06/disputa-de-maternidad-en-la-asamblea-legislativa.

10

CIVIC MOBILIZATION: #NOTEMETÁSCONMI-PROPIEDAD

Faced with these threats, IDEAS Labs spearheaded the campaign #NoTeMetásConMi-Propiedad¹⁴ (Don't Mess with My Property). This movement has mobilized small property owners, condominium associations, civil society organizations, and legal experts. A public petition on Change.org rapidly gathered signatures, amplifying awareness and generating media coverage. Its slogan—*"Property is more than a piece of land and a building; it is your life and your freedom"*—resonated deeply.

The campaign reframed the debate. Rather than focusing narrowly on legal technicalities, it highlights fundamental questions of liberty. As a result, support extended beyond the condominium community to broader segments of society. The movement has demonstrated the power of civic mobilization to challenge elite capture and reclaim policymaking for the public interest.

11

BEYOND BILL 24.640: A PATTERN OF THREATS

Bill 24.640 is not an isolated incident. Other legislative initiatives, such as Bill 22.834, which sought to expand state powers to freeze assets, also raised alarms. These initiatives reveal a pattern: property rights, once regarded as inviolable in

Costa Rica, are increasingly treated as negotiable. This erosion undermines legal certainty, discourages investment, and weakens democracy.

12

LESSONS LEARNED

The struggle over Bill 24.640 offers critical lessons. Democratic vigilance is essential; property rights must be defended not only in courts but also in legislatures and public discourse. Transparency must be reinforced; policymaking should be open and participatory. Broad coalitions matter; the success of #NoTeMetásConMi-Propiedad demonstrates that civic mobilization can counterbalance elite capture when institutions falter.

Moreover, the case shows the importance of comparative learning. Other countries in the region have faced similar battles. From Mexico to Argentina, property rights have become flashpoints for larger struggles over democracy and crony capitalism. Costa Rica must learn from these experiences to avoid repeating their mistakes.

13

CONCLUSION: PROPERTY AS THE PILLAR OF FREEDOM

Costa Rica stands at a crossroads. It can reaffirm its tradition of rule of law, legal certainty, and inclusive democracy, or it can drift toward a system in which lobbyists and elites dictate outcomes. The battle over Bill 24.640 demonstrates that defending property rights is defending democracy itself.

Only by strengthening inclusive institutions, ensuring transparency, and rejecting extractive policymaking can Costa Rica preserve its reputation as a stable and free society.

14. #NOTEMETÁSCONMI-PROPIEDAD - SEPULTEMOS EL PROYECTO QUE PERJUDICA A PEQUEÑOS PROPIETARIOS public petition on the Change.org platform: tinyurl.com/notemetasconmipropiedad/.

ANNEXES

Annex 1: IDEAS Labs’ open letter denouncing exclusion from working tables (June 13, 2025).

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ANNEX 1: IDEAS LABS’ OPEN LETTER DENOUNCING EXCLUSION FROM WORKING TABLES (JUNE 13, 2025).

OPEN LETTER TO THE PUBLIC

IDEAS Labs denounces the exclusion of stakeholders in legislative discussion on a bill affecting property rights.

SAN JOSÉ, COSTA RICA – JUNE 13, 2025

IDEAS Labs, a think tank specializing in public policy, publicly denounces the exclusion of stakeholders from the working group convened by Congresswoman Daniela Rojas (PUSC) regarding Bill No. 24.640, *Bill for Good Governance and Modernization of Condominium Property*, held yesterday, June 12, 2025, from 1:00 p.m. to 3:00 p.m. at the Legislative Assembly.

On Wednesday, April 23, 2025, in the Legal Affairs Committee, Congresswoman Rojas stated that the bill was developed through a series of working groups held on Fridays [min. 12:43], with participation of all stakeholders, which were organized following a public forum, *Technical Day of Citizen Participation: Condominium Property, toward a comprehensive reform of the legislation*.

When IDEAS Labs learned, through third parties of the call for a working group to review the bill, we formally expressed our interest in participating in that space for dialogue through multiple emails, WhatsApp messages, and phone calls directed to Mr. Luis Claudio Gutiérrez, advisor to Congresswoman Rojas, as well as to Congresswoman Rojas herself.

The Office of Congresswoman Rojas denied us the opportunity to contribute to the analysis of this important bill. In an official response received on June 10, we were told that the *table* “was coordinated specifically with a particular group several weeks ago” and we were offered a possible separate meeting, without proposing a date, place, or time for it.

We believe in working groups if they are open to the public. We attempted to participate in this “table” because we (mistakenly) believed it was a space open to the participation of any stakeholder and that the only requirement for participation was to confirm the names of attendees with the congressional office.

The truth is that this kind of exclusion of stakeholders not only obstructs democratic and plural debate but also deepens the troubling trend of legislating behind closed doors, where the interests of economic groups with preferential access to lawmakers are unjustly prioritized.

This so-called “working group” does not grant legitimacy to a bill that threatens the property rights of more than 500,000 Costa Ricans.

On the contrary, it highlights, on one hand, the decay of the legislative process in fundamental matters, and on the other, the fear of the sponsors and promoters of Bill No. 24,640 of engaging in public debate with stakeholders capable of explaining, with technical grounding, the serious flaws of the bill and the negative consequences that would result from its eventual approval.

IDEAS Labs reiterates its commitment to a serious, transparent public policy discussion, open to citizens, based on technical foundations, supported by evidence, and necessarily inclusive of all stakeholders. At the same time, we strongly repudiate any attempt to silence critical and informed voices in spaces meant for building public policy.

As John Stuart Mill wisely declared in his celebrated essay *On Liberty* (1859), silencing an opinion can be considered a crime against humanity:

"But the peculiar evil of silencing the expression of an opinion is, that it is robbing the human race; posterity as well as the existing generation; those who dissent from the opinion, still more than those who hold it. If the opinion is right, they are deprived of the opportunity of exchanging error for truth: if wrong, they lose, what is almost as great a benefit, the clearer perception and livelier impression of truth, produced by its collision with error."

Do not stand idly by while a handful of large real estate developers and their unscrupulous political allies in the Legislative Assembly conspire to trample on your rights and threaten private property in Costa Rica!

**Sign the petition
#NOTEMETÁSCONMIPROPIEDAD
on Change.org!**



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