

SUPREME COURT OF THE UNITED STATES

Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency

535 U.S. 302 (2002) · No. No. 00-1167 · Decided April 23, 2002

SUMMARY

The United States Supreme Court considered whether temporary development moratoria imposed by the Tahoe Regional Planning Agency constituted per se regulatory takings under the Fifth Amendment's Takings Clause. The Court held that a temporary moratorium is not categorically a taking and that the claim should be evaluated under the fact-specific Penn Central framework. The Court affirmed the Ninth Circuit's judgment.

CASE DETAILS

COURT	Supreme Court of the United States
WRITING FOR THE COURT	Justice Stevens; Chief Justice Rehnquist; Justice O'Connor; Justice Scalia; Justice Kennedy; Justice Souter; Justice Thomas; Justice Ginsburg; Justice Breyer
JURISDICTION	Federal
DECIDED	April 23, 2002
DOCKET	No. 00-1167
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petitioners sought review of a Ninth Circuit decision reversing a District of Nevada ruling that temporary development moratoria effected categorical regulatory takings requiring compensation. The Supreme Court granted certiorari on whether the temporary moratoria constituted per se takings under the Takings Clause.
STANDARD OF REVIEW	De novo review of the legal question whether the challenged moratoria constituted per se regulatory takings; the Court accepted the lower courts' undisputed factual findings.
PRECEDENTIAL VALUE	U.S. Supreme Court majority opinion; binding precedent
PARTIES	Tahoe-Sierra Preservation Council, Inc., Class of individual property owners v. Tahoe Regional Planning Agency, Other defendants

TOPICS

takings clause

environmental law

zoning

constitutional law

administrative law

PRACTICE AREAS

constitutional law

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land-use regulation

administrative law

QUESTIONS PRESENTED

1. Whether a temporary development moratorium imposed while a regional comprehensive land-use plan is being prepared constitutes a per se taking requiring compensation under the Takings Clause.
2. Whether the challenged moratoria could be analyzed by temporally severing a 32-month segment of the owners' fee-simple interests and applying Lucas's categorical rule to that segment.
3. Whether Penn Central's fact-specific regulatory-takings framework is the appropriate method for evaluating temporary land-use restrictions.

HOLDINGS

1. A temporary development moratorium does not automatically constitute a compensable per se taking merely because it temporarily denies all economically viable use of property. Whether a temporary moratorium effects a taking depends on the particular circumstances of the case.
2. A landowner may not conceptually sever a temporary period of restricted use from the remainder of a fee-simple estate and treat that temporal segment as the relevant property for determining whether all economically beneficial use was eliminated.
3. Temporary land-use restrictions, including development moratoria, are generally evaluated under the Penn Central framework rather than under a new categorical rule based solely on duration or temporary denial of use.

KEY QUOTATIONS

"In our view the answer to the abstract question whether a temporary moratorium effects a taking is neither 'yes, always' nor 'no, never'; the answer depends upon the particular circumstances of the case." (535 U.S. at 321)

"Hence, a permanent deprivation of the owner's use of the entire area is a taking of 'the parcel as a whole,' whereas a temporary restriction that merely causes a diminution in value is not." (535 U.S. at 332)

"We conclude, therefore, that the interest in 'fairness and justice' will be best served by relying on the familiar Penn Central approach when deciding cases like this, rather than by attempting to craft a new categorical rule." (535 U.S. at 342)

FACTUAL BACKGROUND

Tahoe Regional Planning Agency imposed two development moratoria while it studied the environmental effects of development around Lake Tahoe and prepared a comprehensive regional land-use plan. Ordinance 81-5 operated from August 24, 1981, to August 26, 1983, and Resolution 83-21 operated from August 27, 1983, to

April 25, 1984. Together, the measures effectively prohibited construction on sensitive lands for approximately 32 months, including lands owned by petitioners who sought to build residences.

PROCEDURAL HISTORY

Petitioners filed parallel federal actions challenging Tahoe Regional Planning Agency development moratoria and related regional plans. The actions were consolidated for trial in the District of Nevada, which found that the moratoria temporarily deprived petitioners of all economically viable use and constituted categorical takings under Lucas, although it rejected a Penn Central claim. The Ninth Circuit reversed the categorical-takings ruling, held that the parcel as a whole must be considered, and concluded that Penn Central supplied the appropriate framework. The Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Agins v. City of Tiburon, 447 U.S. 255 (1980)
- Armstrong v. United States, 364 U.S. 40, 49 (1960)
- First English Evangelical Lutheran Church of Glendale v. County of Los Angeles, 482 U.S. 304 (1987)
- Lucas v. South Carolina Coastal Council, 505 U.S. 1003 (1992)
- Palazzolo v. Rhode Island, 533 U.S. 606 (2001)
- Penn Central Transportation Co. v. New York City, 438 U.S. 104 (1978)
- Keystone Bituminous Coal Assn. v. DeBenedictis, 480 U.S. 470 (1987)
- Concrete Pipe & Products of California, Inc. v. Construction Laborers Pension Trust for Southern California, 508 U.S. 602 (1993)
- Suitum v. Tahoe Regional Planning Agency, 520 U.S. 725 (1997)
- Lake Country Estates, Inc. v. Tahoe Regional Planning Agency, 440 U.S. 391, 394 (1979)
- Village of Euclid v. Ambler Realty Co., 272 U.S. 365 (1926)
- Loretto v. Teleprompter Manhattan CATV Corp., 458 U.S. 419 (1982)
- Nollan v. California Coastal Commission, 483 U.S. 825 (1987)
- Pennsylvania Coal Co. v. Mahon, 260 U.S. 393 (1922)
- Danforth v. United States, 308 U.S. 271, 285 (1939)
- Block v. Hirsh, 256 U.S. 135, 157 (1921)
- United States v. General Motors Corp., 323 U.S. 373 (1945)
- United States v. Petty Motor Co., 327 U.S. 372 (1946)
- United States v. Causby, 328 U.S. 256 (1946)
- Andrus v. Allard, 444 U.S. 51 (1979)
- Yee v. Escondido, 503 U.S. 519, 523 (1992)

