

SUPREME COURT OF FLORIDA

St. Johns River Water Management District v. Koontz

77 So. 3d 1220 (Fla. 2011) · Decided November 3, 2011

SUMMARY

The Florida Supreme Court reviewed whether the Nollan/Dolan exactions doctrine applies when a government condition involves a monetary or non-real-property obligation and the requested permit is denied rather than issued. The court held that the doctrine applies only when the government seeks a dedication of or over an interest in real property in exchange for permit approval and actually issues the permit. It therefore answered the rephrased certified question in the negative and quashed the Fifth District Court of Appeal's decision.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Lewis, J.; Canady, C.J.; Labarga, J.; Pariente, J.; Perry, J.; Polston, J.; Quince, J.
JURISDICTION	Florida
DECIDED	November 3, 2011
DISPOSITION	quashed
PROCEDURAL POSTURE	Review of a decision of the Fifth District Court of Appeal affirming a judgment awarding inverse-condemnation damages and certifying a question of great public importance concerning the application of the Nollan/Dolan exactions doctrine.
STANDARD OF REVIEW	Constitutional interpretation is reviewed de novo.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	St. Johns River Water Management District v. Coy A. Koontz, Jr., as personal representative of the Estate of Coy A. Koontz, Sr.

TOPICS

[takings clause](#) [constitutional law](#) [real estate](#) [environmental law](#) [administrative law](#)

PRACTICE AREAS

[constitutional law](#) [real estate](#) [environmental law](#) [administrative law](#) [remedies](#)

QUESTIONS PRESENTED

1. Whether the Nollan/Dolan exactions doctrine applies when the alleged exaction does not require dedication of an interest in or over real property to public use.
2. Whether the Nollan/Dolan exactions doctrine applies when the regulatory agency does not issue the requested permit and the alleged exaction is never imposed or performed.

HOLDINGS

1. Under the takings clauses of the United States and Florida Constitutions, the Nollan/Dolan essential-nexus and rough-proportionality requirements apply only when the governmental condition involves dedication of, or an interest over, the owner's real property in exchange for permit approval.
2. The Nollan/Dolan exactions doctrine does not apply when the regulatory agency never issues the permit, the landowner never performs the proposed condition, and no property interest is taken.

KEY QUOTATIONS

“Accordingly, we hold that under the takings clauses of the United States and Florida Constitutions, the Nollan/Dolan rule with regard to “essential nexus” and “rough proportionality” is applicable only where the condition/exaction sought by the government involves a dedication of or over the owner’s interest in real property in exchange for permit approval; and only when the regulatory agency actually issues the permit sought, thereby rendering the owner’s interest in the real property subject to the dedication imposed.” (77 So. 3d at 1230)

“Further, even if we were to conclude that the Nollan/Dolan test applied to non-real property exactions—which we do not—Mr. Koontz would nonetheless fail in his exactions challenge because St. Johns did not issue permits, Mr. Koontz never expended any funds towards the performance of off-site mitigation, and nothing was ever taken from Mr. Koontz.” (77 So. 3d at 1231)

FACTUAL BACKGROUND

Coy A. Koontz, Sr. owned approximately 14.2 acres in Orange County, most of which was within a Riparian Habitat Protection Zone regulated by the District. He sought permits to develop approximately 3.7 acres, including wetlands. The District proposed that he dedicate the remaining property to conservation and either perform off-site mitigation or reduce development to one acre and place the remaining property under a deed restriction. Koontz accepted the conservation dedication but rejected the off-site mitigation and development-reduction conditions, after which the District denied the permits; the District later issued permits after receiving additional evidence concerning the amount of wetlands.

PROCEDURAL HISTORY

Koontz sought permits from the St. Johns River Water Management District to develop wetlands and uplands on his property. The circuit court found that the District's permit conditions effected a taking and awarded damages. The Fifth District affirmed, holding that an exactions claim could proceed even though the landowner rejected the conditions, no permit was issued, and the conditions involved off-site monetary mitigation rather than

dedication of an interest in real property. The Supreme Court of Florida rephrased the certified question, answered it in the negative, quashed the Fifth District's decision, and remanded.

DISPOSITION

quashed

REMAND INSTRUCTIONS

Remanded to the Fifth District Court of Appeal for proceedings consistent with the opinion.

CASES CITED

- St. Johns River Water Mgmt. Dist. v. Koontz, 5 So. 3d 8 (Fla. 5th DCA 2009)
- Koontz v. St. Johns River Water Mgmt. Dist., 720 So. 2d 560 (Fla. 5th DCA 1998)
- St. Johns River Water Mgmt. Dist. v. Koontz, 861 So. 2d 1267 (Fla. 5th DCA 2003)
- St. Johns River Water Mgmt. Dist. v. Koontz, 908 So. 2d 518 (Fla. 5th DCA 2005)
- Tampa-Hillsborough County Expressway Auth. v. A.G.W.S. Corp., 640 So. 2d 54 (Fla. 1994)
- Joint Ventures, Inc. v. Department of Transportation, 563 So. 2d 622 (Fla. 1990)
- Florida Department of Revenue v. City of Gainesville, 918 So. 2d 250 (Fla. 2005)
- Palazzolo v. Rhode Island, 533 U.S. 606 (2001)
- Armstrong v. United States, 364 U.S. 40 (1960)
- First English Evangelical Lutheran Church of Glendale v. County of Los Angeles, 482 U.S. 304 (1987)
- Loretto v. Teleprompter Manhattan CATV Corp., 458 U.S. 419 (1982)
- Lucas v. South Carolina Coastal Council, 505 U.S. 1003 (1992)
- Penn Central Transportation Co. v. New York City, 438 U.S. 104 (1978)
- Nollan v. California Coastal Commission, 483 U.S. 825 (1987)
- Dolan v. City of Tigard, 512 U.S. 374 (1994)
- City of Monterey v. Del Monte Dunes at Monterey, Ltd., 526 U.S. 687 (1999)
- Lingle v. Chevron U.S.A., Inc., 544 U.S. 528 (2005)
- Agins v. City of Tiburon, 447 U.S. 255 (1980)
- McClung v. City of Sumner, 548 F.3d 1219 (9th Cir. 2008)
- Clajon Production Corp. v. Petera, 70 F.3d 1566 (10th Cir. 1995)
- Ehrlich v. City of Culver City, 12 Cal. 4th 854, 911 P.2d 429 (1996)
- Town of Flower Mound v. Stafford Estates Ltd. Partnership, 135 S.W.3d 620 (Tex. 2004)
- Chesapeake & Ohio Railway Co. v. Martin, 283 U.S. 209 (1931)
- Carnival Corp. v. Carlisle, 953 So. 2d 461 (Fla. 2007)
- Teague v. Lane, 489 U.S. 288 (1989)
- United States v. Carver, 260 U.S. 482 (1923)
- Warth v. Seldin, 422 U.S. 490 (1975)

- Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency, 535 U.S. 302 (2002)
- Iowa Assurance Corp. v. City of Indianola, 650 F.3d 1094 (8th Cir. 2011)
- West Linn Corporate Park, LLC v. City of West Linn, 428 F. App'x 700 (9th Cir. 2011)

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