

## Supreme Court Renders Third Ruling in its Property Rights Trilogy: *Koontz v. St. Johns River Water Management District*

The Supreme Court of the United States today in a 5-4 decision written by Justice Alito reversed the Florida Supreme Court in *Koontz v. St. Johns River Water Management District*, holding that the Government cannot condition the issuance of a land-use permit on the owner's giving up a portion of his property unless there is a "nexus" and "rough proportionality" between the Government's demand and the proposed land use. In *Koontz*, the property owner had submitted plans to develop 3.7 acres of a 14.9-acre parcel of land that the state water management district had since his purchase of the land, deemed wetland. The District advised him that it would approve his construction plans only if he complied with the Government's demands, specifically that he pay for improvements to a Government-owned parcel miles away and reduce the size of his development plans. Koontz refused and sued in state court for a taking.

The trial court ruled in his favor, holding that the District's actions were unlawful under *Nollan v. California Coastal Commission* and *Dolan v. City of Tigard*. The Court of Appeals affirmed that ruling. But the Florida Supreme Court reversed, holding that the district's demand for improvement of its property in return for a permit that was not issued cannot give rise to a takings claim under *Nollan* and *Dolan*.

The U.S. Supreme Court reversed the Florida Supreme Court, holding that the District's imposition of unconstitutional conditions on Koontz's construction application ran afoul of the Court's decisions in *Nollan* and *Dolan*:

*Those cases reflect an overarching principle, known as the unconstitutional conditions doctrine, that vindicates the Constitution's enumerated rights by preventing the government from coercing people into giving them up. Nollan and Dolan "involve a special application" of this doctrine that protects the Fifth Amendment right to just compensation for property the government takes when owners apply for land-use permits.*

Writing for the majority (Roberts, C.J., Scalia, Kennedy, and Thomas, JJ) Justice Alito noted that these requirements were especially important in the context of regulated land development:

*[L]and-use permit applicants are especially vulnerable to the type of coercion that the unconstitutional conditions doctrine prohibits because the government often has broad discretion to deny a permit that is worth far more than the property it would like to take. . . .*

The Court further held that Florida's demand that Koontz develop Government property in exchange for the issuance of the permit violated the Fifth Amendment:

*Extortionate demands for property in the land-use permitting context run afoul of the Takings Clause not because they take property but because they impermissibly burden the right not to have property taken without just compensation. As in other unconstitutional conditions cases in which*

*someone refuses to cede a constitutional right in the face of coercive pressure, the impermissible denial of a governmental benefit is a cognizable injury.*

See our previous blog post on this case [here](#).

This is the third and final property rights decision of the Supreme Court's October 2012 term (which ends June 28, 2013)—and the property owner has prevailed in all three. See our posts on *Arkansas Game & Fish* [here](#) and on the *Horne* decision [here](#).

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