
Plaintiffs: Tahoe-Sierra Preservation Council, petitioners, landowners
Defendant: Tahoe Regional Planning Agency
Court: U.S. Supreme Court

Statement of the Facts: In 1969, Congress approved an interstate Tahoe Regional Planning Compact that created the Tahoe Regional Planning Agency (TRPA) to manage development in the Lake Tahoe Basin, located in both California and Nevada. However, inadequacies in this 1969 Compact caused both states in 1980 to amend the Compact in such a way that created greater regulatory power, including a mandate to develop a comprehensive regional plan. To protect the Lake Tahoe Basin during the development of the regional comprehensive plan, the TRPA adopted ordinances that imposed a moratorium on the development of sensitive land in the Basin. More specifically, two moratoria were imposed, one for 24 months and the other for 8 months, between 1981 and 1984. A council of landowners in the Tahoe Basin and other landowners filed parallel suits in Nevada and California federal courts against the TRPA claiming that the two moratoria constituted a takings without just compensation, in violation of the Fifth Amendment's takings clause of the U.S. Constitution. The suits were consolidated for trial in the United States District Court for the District of Nevada, which found that the landowners were deprived of all economically viable use of their land, constituting therefore a takings. However, on appeal to the United States Court of Appeals for the Ninth Circuit, this ruling was reversed, finding that because the moratoria caused only a temporary impact on the landowners economical viability, no takings occurred.

Issue: Whether the two temporary moratoria imposed between 1981 and 1984 by the TRPA on nearly all residential development in a large portion of the area managed by the TRPA constitute a takings requiring compensation under the takings clause in the Fifth Amendment of the U.S. Constitution.

Procedural Posture: On appeal by writ of certiorari from the ninth circuit U.S. Court of Appeals

Disposition: Affirmed (temporary moratoria did not constitute a takings, supporting TRPA)

Holdings:
- The two TRPA moratoria imposed between 1981 and 1984 totaling about 32 months did not constitute a takings requiring compensation under the Fifth Amendment's takings clause.
- Temporally restricting property rights on land as part of a public program to promote public health, safety and welfare is not a standard takings in which the government uses private property for its own use.

Implications:
- In light of First English Evangelical Lutheran Church of Glendale v. County of Los Angeles and this case, whether a temporary moratorium on development constitutes a takings is not a yes or no answer but instead depends on the circumstances of the case.
- This case weakens Lucas v. South Carolina Coastal Council, which held that the denial of all economical use of property for the common good is a taking, because all economical use of property in the Tahoe Basin was indeed denied for a period of time (O’Scannlain 2003). Similarly in Lucas, the regulation, although initially permanent, only lasted two years. Note the “all” in this context is not absolute, for even in Lucas the property still had value. Furthermore, “all” economical use now needs to be evaluated temporally as well as physically (O’Scannlain 2003).
- With regard to environmental planning, the legal authority of regional planning associations is strengthened because moratoria will not constitute a takings, recognizing that the regional planning authority will develop a plan for the common good.
- The question addressed by U.S. Supreme Court Justice Stevens in his dissent of First English asking “why should there be a constitutional distinction between a permanent restriction that only reduces the economic value of the property by a fraction—perhaps one-third—and a restriction that merely postpones the development of a property for a fraction of its useful life—presumably far less than a third,” has been answered (O’Scannlain 2003). There isn’t a distinction...for now.

References:
First English Evangelical Lutheran Church of Glendale v. County of Los Angeles, California, 482 U.S. 304 (1987)