

SINGLE ECONOMIC PARCELS

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March 10, 2011



Coastal Resources Protected by Chapter 3 Policies

- Public Access and Recreation
- Sensitive Habitats and Marine Resources
- Scenic and Visual Resources
- Safety and Stability
- Coastal Agriculture and Rural Character
- Archaeological Resources

Constitutional Provisions

- “. . . nor shall private property be taken for public use, without just compensation.”
 - 5th Amendment to the U.S. Constitution
- “Private property may be taken or damaged for a public use and only when just compensation . . . has first been paid . . .”
 - Art. 1, § 19(a), of the California Constitution

Coastal Act – Section 30010

“...this division is not intended, and shall not be construed as authorizing the commission... to grant or deny a permit in a manner which will take or damage private property for public use, without the payment of just compensation therefor.”

Coastal Act – Section 30009

“This division shall be liberally construed to accomplish its purposes and objectives.”

Penn Central

(U.S. Supreme Court)

“Taking” jurisprudence does not divide a single parcel into discrete segments and attempt to determine whether rights in a particular segment have been entirely abrogated. . . . this Court focuses . . . on the character of the action and on the nature and extent of the interference with rights in the parcel as a whole . . .”

“Parcel as a Whole”

Parcel \geq Legal lot

District Intown Properties, Ltd.
v. District of Columbia

(D.C. Circuit Court of Appeals)

Parcel as a whole = All 9 lots

Aggregation Factors

(District Intown Properties)

- unity of ownership
- the degree of contiguity
- the dates of acquisition
- the extent to which the entire area has been treated as a single unit
- the extent to which the restricted areas enhance the value of remaining areas

Ciampitti v. United States

(U.S. Court of Federal Claims)

Parcel = all “western” and “eastern” lots
(45 acres) even though not contiguous

“a taking can appear to emerge if the property is viewed too narrowly”

Forest Properties v. Big Bear Municipal Water District

(Federal Circuit Court of Appeals)

Parcel as a Whole = 2 lots (62 acres)

even though acquired at different times

Forest Properties v. Big Bear Municipal Water District (Federal Circuit Court of Appeals)

Held: the lower court:

“properly looked to the economic reality of the arrangements, which transcended these legalistic bright lines”

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Bases for Unity of Ownership

- Individual owner
- Individual acting through multiple business entities
- Relationships among separate owners
- Partnership as owner

Kalway v. City of Berkeley

(California Court of Appeals)

“ . . . the evidence fully supports the City's determination that irrespective of the grant deed, the [two lots] were in substance under common ownership . . .”

“We look to the substance of a transaction and not to its form.”

Relationships Among Owners

- Control over the property
- Timing of the change from common ownership - juxtaposition with other events
- To Whom the property was transferred
- Transfer terms

Partnership as Owner

“Property is presumed to be partnership property if purchased with partnership assets, even if not acquired in the name of the partnership”

- Cal. Corp. Code § 16204(c)

Chapman v. Hughes

(California Supreme Court)

- *“respective parcels of land . . . were contributed by the respective partners, and thereby became partnership property”*
- *“not affected by the agreement that each partner should retain his title; they held the legal title in trust for the partnership use.”*

Zanetti v. Zanetti

“a partner’s separate real property may become partnership property if he or she devotes that property to partnership purposes”

Takings Override

- No Existing Economical Use

- No Approvable Use

→ Takings Analysis

Parcel as a Whole

- Single Economic Parcel Principle
 - Proximity of lots
 - Common Ownership
 - Acquisition Time
 - Historical Treatment
 - Relationship between areas