

2018 Eminent Domain, Land Use and Zoning Law Update

SCAC Local Government Attorneys' Institute

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SCDOT v. Powell (2018)

Condemnation – Damages – Closure of Indirect Access



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Rules for availability of recovery for access changes:


Direct Condemnation ≠ Inverse Condemnation

SCDOT v. Powell (2018)
Condemnation – Damages – Closure of Indirect Access


3 Distinct Concepts:

- 1.) **Direct access** (i.e., to an abutting road)
- 2.) **Traffic flow**
- 3.) **Immediacy** (i.e, indirect access to a non-abutting road)

Oien v. Piedmont Mun. Power Agency (Ct. App. 2018)
Condemnation Challenge Action – Abuse of Discretion



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Southern Development criteria for “rational” alternate route analysis:

- Safety
- Reliability
- Aesthetics
- Costs (including land acquisition costs)
- Other appropriate factors such as
 - Environmental conditions
 - Long range area planning by public authorities

“[Condemnor] should then exercise its discretion in the choice of a route based upon a reasoned analysis of the relevant factors; . . . a rational decision making process which is supported by facts.”

Carolina Convenience Stores v. City of Spartanburg

(VACATED 2017)

Physical Takings – Emergency Public Safety Acts



<https://www.gopstatz.com/news/2016/03/11/justice-no-reimbursement-needed-when-costs-damage-property>

Murr v. Wisconsin

(U.S. 2017)

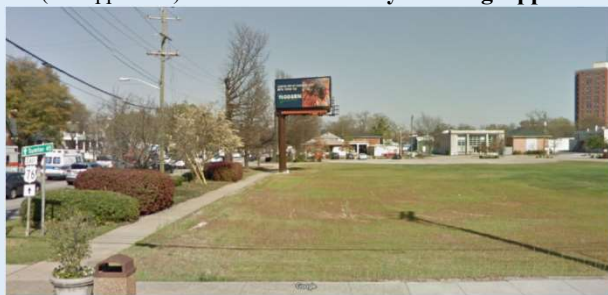
Regulatory Takings – Determining the Relevant Parcel



Quinn v. Queen Anne's County (4th Cir. 2017)
Regulatory Takings – Determining the Relevant Parcel



Christ Central Ministries v. City of Columbia BZA
(Ct. App. 2018) Mootness – Stay Pending Appeal



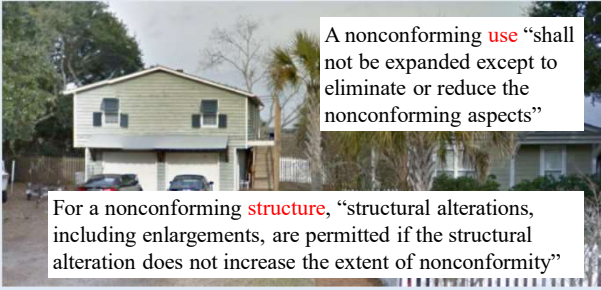
Boehm v. Town of Sullivan's Island BZA (Ct. App. 2018)
Zoning Ordinance Interpretation – Expanding Nonconforming Use



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Siena Corp. v. Rockville, MD (4th Cir. 2017)
Self-Storage Facility – Zoning Text Amendment - Constitutionality



County of Charleston v. SCDOT (Ct. App. 2017)
Land Use Regulation – Application to State Highway System



Am. Entertainers v. City of Rocky Mount (4th Cir. 2018)
Sexually Oriented Business – Licensing Scheme – 1st Amendment



“**all applicable laws**, including, but not limited to, the city's building, zoning, and health regulations

Contest Promotions v. City of San Fran. (9th Cir. 2017)
Sign Regulation – Offsite Advertising – Commercial Speech



Reed v. Town of Gilbert, AZ (U.S. 2015)

1st Amendment Restraints on Sign Regulation:

- “a speech regulation targeted at specific subject matter is content based even if it does not discriminate among viewpoints within that subject matter.”
- “an innocuous justification cannot transform a facially content-based law into one that is content-neutral.”



Bluestein v. Town of Sullivan’s Island (Ct. App. 2018)

Beachfront Accretion – Vegetative Mgmt. – Land Trust Restrictions

