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Court Provides Guide For Defining Property In A Takings Case

26 Jun 2017

St. Croix has a regulation that prohibits the owners of two neighboring properties along the St. Croix River from being separately sold or built upon unless each property has at least an acre of developable land. The Murrs owned two such parcels, each with less than an acre available to be developed. The Murrs wanted to sell one of the lots, but were refused under the regulation. The Murrs alleged that the refusal amounted to an unconstitutional taking. The Wisconsin Court of Appeals disagreed, holding that, looking at the properties together, the Murrs did not suffer a taking. The U.S. Supreme Court, in a 5-3 decision by Justice Kennedy, affirmed. The Court agreed that the parcels had to be looked at as a whole, instead of just looking at the one lot the Murrs wanted to sell, saying that "a number of factors" had to be considered in determining the property at issue for a takings case, including state and local law, the physical properties of the land, the prospective value of the regulated land, and local customs, rejecting any formalistic approach. Chief Justice Roberts, joined by Justices Alito and Thomas, dissented, arguing that state law alone should define the property in question. Justice Thomas separately dissented, arguing for a "fresh look" at the Court's Takings jurisprudence. A link to the opinion in *Murr v. Wisconsin* is here.

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COURT PROVIDES GUIDE FOR DEFINING PROPERTY IN A TAKINGS CASE