

SCOTUS Opinion: No Exhaustion Requirement To Contest A Fifth Amendment Taking

29 Jun 2021

In *Pakdel v. City and County of San Francisco*, a married couple who owned part of a multiunit residential building sued when the City of San Francisco required that they offer a lifetime lease to their tenant as part of allowing them to convert the building into a condominium, arguing that the lifetime lease requirement was an unconstitutional regulatory taking of their property in violation of the Fifth Amendment. The district court dismissed their claim because they had not first sought compensation for the taking from the City, under *Williamson County Regional Planning Commission v. Hamilton Bank of Johnson City*, 473 U.S. 172 (1985). However, while on appeal before the Ninth Circuit, the Supreme Court repudiated *Williamson County*, holding that a Fifth Amendment takings right matures “at the time of the taking,” and availability of other non-litigation remedies did not preclude suit. *Knick v. Township of Scott*, 588 U.S. ____ (2019). The Ninth Circuit, though, affirmed the district court’s ruling, holding that the couple’s claims were not ripe because there was no “final decision” from the City on the lease requirement.

The Court, in a unanimous *per curiam* decision, reversed, holding that a takings claim did not require exhaustion of state remedies—the government must only have reached a “conclusive position,” which it had done so here.

A link to the opinion is here: https://www.supremecourt.gov/opinions/20pdf/20-1212_3204.pdf

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TAGGED: Fifth Amendment, Williamson County Regional Planning Commission v. Hamilton Bank of Johnson City, Pakdel v. City and County of San Francisco, Exhaustion, regulatory taking, Knick v. Township of Scott