



The Real Story behind Lucas v. South Carolina Coastal Council

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In 1986 David Lucas purchased two vacant beachfront lots in Charleston County on the South Carolina coast for \$975,000. Two years later, the state of South Carolina Coastal Council adopted the Beachfront Management Act (BMA), in order to protect the shoreline from erosion and protect the state from natural hazards. BMA prohibited construction of buildings in certain high-risk areas along the coast - including on Mr. Lucas's vacant lots. Lucas sued the Coastal Council, arguing that the regulation was a violation of the Fifth Amendment - that private property cannot be taken for public use without compensation. The Coastal Council argued that the Act was not a regulatory taking because it was indented to protect the public from a nuisance.

The case made its way to the United States Supreme Court in June 1992, which agreed with Mr. Lucas in a 6 to 3 decision. The decision established the "total taking" theory, in which a taking could be established with "complete obliteration of all property value." However, it also noted that a total regulatory taking is extremely rare, and in most cases development regulation leaves private property with some value. For example, even when development is prohibited, most land still has value as private open space or some other less intensive purpose.

The Lucas decision has had a broad impact on planning and development regulation, and is considered one of the most important U.S. Supreme Court Decisions impacting the planning profession. Although the court did not clarify the circumstances in which a total regulatory taking could take place, it did leave open the idea of a "partial takings" theory because it did not suggest that only the "complete obliteration of property value" was needed to establish a taking. This paper will provide a history of the Beachfront Management Act, the Lucas decision, and its aftermath. It will also discuss the impact of the decision on planning practice, the reaction from the planning and legal communities, and how it impacted subsequent takings cases, including Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency, which established the theory of "partial regulatory takings."

KEY WORDS: Takings, Lucas v. South Carolina Coastal Council, eminent domain, Coastal Zone Management Act.