

NOLLAN v. CALIFORNIA COASTAL COMMISSION (1987)

DIRECTIONS

Read the Case Background and Key Question. Then analyze the Documents provided. Finally, answer the Key Question in a well-organized essay that incorporates your interpretations of the Documents as well as your own knowledge of history.

CONSTITUTIONAL PRINCIPLES

*Limited government
Inalienable rights*

Case Background

Concerned about increasing development along the California shoreline, the California Coastal Commission sought to protect public views of the beaches. James and Marilyn Nollan wished to replace a small (521-square-foot) beachfront bungalow with a 1,674-square-foot home. The much larger house would block public view of the beach from the street. Property use restrictions required that, before a property owner could receive a permit for new construction, s/he must agree to allow the public permanent use of the beach through an easement on the property. The easement would have allowed beach-goers to pass over a strip of land on Nollan's private beach in order to access the public beaches. The Nollans argued that this restriction on their property use was a taking requiring just compensation under the Fifth and Fourteenth Amendments.

Six years later the Court would hear a similar case: *Dolan v. Tigard*. Florence Dolan wanted to pave the parking lot and enlarge her store in the city's busy commercial district. A creek ran across a corner of Dolan's property. Before it would grant a permit to Dolan to improve her property, the City Planning Commission required her to dedicate a portion of the lot along the creek for two purposes: 1. a public greenway that would minimize potential flooding, and 2. a public pedestrian/bicycle pathway to relieve traffic congestion in the central business district.

In each of these cases, the Supreme Court was asked to decide whether the regulations imposed on property owners amounted to a "taking" of their property. If so, the Fifth Amendment requires that they be paid for the property that was taken.