



Anthony Marin Explains What Are Takings

SARASOTA, FLORIDA, UNITED STATES, June 18, 2018 /EINPresswire.com/ -- [Anthony Marin](#) points out that it is important to take an impartial look at what takings are, focusing on the law and not on emotions. He explains that takings refer to the authority of the government to take private property and allocate it for public use. Typically, in takings cases, Marin represents the government, something that he has been very successful in. That said, he notes that the land-use law is perhaps the most complex and difficult to understand today.

The Complexity of Land-Use Laws

According to the Marin, the reason why land-use laws are so complex is that they involve so many different agencies. Each of these agencies is governed by directives, laws, ordinances, codes, procedures, and rules. To make decisions on land-use cases, Marin needs to bring together a board of adjustment decisions, municipality and town interpretations, county and town codes, agency regulations, court decisions, state statutes, federal laws, state constitutions, and the U.S. Constitution. These are all applicable to what can happen to a piece of property.

Marin has worked with the U.S. Supreme Court to determine whether property rights are violated or not. Under the Fifth Amendment, it is not possible to take private property for public use, unless just compensation is offered. This is because there is no requirement for individuals to bear public burdens.

Marin on Types of Takings

According to Marin, there are two different types of takings. They are regulatory (de facto) and physical. The regulatory taking is the more difficult one. Physical takings include things such as the roof of an apartment building for cable television, taking land for a government airport, or condemnations for roads. He explains that while many believe that only the Department of Transportation has the right to take property for this type of use, it isn't true. Agencies such as the Office of Management and Budget, the Department of Education, parking authorities, state universities, municipalities and counties, and the Department of Natural Resources and Environmental Control all have that right as well.

However, [Anthony Marin points out](#) that it is important that they follow the relevant rules and regulations as well. One of these is that the state must pay for the costs of takings. Additionally, takings cannot be enforced solely for economic development. Condemning land, meanwhile, can only be done for very specific public purposes. Additionally, the agency must be able to argue why the proposed use is necessary. At the same time, there are departments such as the Department of Transportation that are sometimes exempted from this rule.

Legally speaking, according to Marin, a taking can only take place if all of the economic viability of that particular piece of property has been destroyed. What further complicates the matter is that political and legislative concerns, such as regulatory takings and zoning matters, also come into play. For instance, through governmental work, a property may decrease in value but that doesn't mean that the property owner has the right to be compensated for that loss.

Density limits for municipal services that are lacking, agricultural to industrial rezoning, prohibitions on certain property uses, value fluctuations during decision-making processes, ordinances that prohibit an excavation if it is below the water table and this stops current use, and land-use moratoriums are all government actions that are not classified as a taking. Rather, according to Marin, regulatory takings are such things like repeated denials after a federal or state recommendation and a permit condition that requires a public easement.

What About Vested Rights?

Anthony Marin also explains that vested rights mean that a developmental proposal can continue even if there have been changes in the law. If it has been determined that there is a vested right, a developer can simply continue with the construction. Different states have different methods of obtaining vested rights, although these may change. For instance, Delaware had the "permit-plus rule" until 2002, when it was determined that other factors must also be taken into consideration. Those include how long a permit was pending, how much has been spent so far, and more. Rule changes are generally enforced to make a process more efficient and smooth, but whether or not that is actually the case remains to be seen.

According to Marin, the aim of the government is to offer predictability and stability. They want to stop making regular zone changes, particularly if they are unnecessary because this complicates matters significantly. This is true for all the different government agencies. At the same time, Marin recognizes that the work they do is already incredibly hard and that the many different laws on takings only further complicate this. However, unless there is clarity, problematic cases will continue to exist.

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