

Adoption Of Airport Land Use Plan Does Not Support Claims For Regulatory Taking Or Precondemnation Damages

10.25.2017

The adoption of an Airport Land Use Compatibility Plan (ALUCP) restricting the permitted future use of a developer's land was not a final land use decision and provided no basis for a regulatory takings claim.

In a recent court of appeal case, plaintiff sought to develop two lots at the end of an airport runway. He obtained initial land use approvals and permits from the City of Carlsbad. But when the Airport Authority later placed the two lots in a restrictive "Safety Zone," the City advised plaintiff that development was no longer feasible. Plaintiff sued the Airport Authority and San Diego County claiming adoption of the ALUCP was a "disguised taking."

The court disagreed with plaintiff. It found that the restrictions imposed by the ALUCP did not preclude all development. It further found that plaintiff could not seek damages for unreasonable precondemnation conduct because he failed to show any public announcement of intent to acquire his lots.

This case confirms that public entities are insulated from liability for long-term land use planning under the "takings clause." At the same time, it is an important reminder that great care should be taken during the land use planning process if a public agency contemplates acquiring or restricting the use of private property for future public purposes.

For more detail regarding *Dryden Oaks, LLC v. San Diego County Regional Airport Authority*, [click here](#).

For more information regarding this case, takings law or inverse condemnation, please contact Saskia Asamura.

ATTORNEYS

Saskia T. Asamura

PRACTICE AREAS

Municipal & Public Agency Law

OF RELATED INTEREST

Land Use Planning & Zoning (Municipal)