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To: "AJack R. Venrick" <jacksranch@skynetbb.com>
Sent: Sunday, July 18, 2010 5:43 PM
Subject: 2010-07-18 Fw: New article on the GMA, CAPR v. Sims and Takings law
Sent: Saturday, February 13, 2010 5:40 PM
Subject: New article on the GMA, CAPR v. Sims and Takings law

YES PATRICIA, THERE IS A SANTA CLAUSE.

HOT DOG....THIS HAS ME EXCITED!!

EVERYONE NEEDS TO SHOW UP MONDAY NIGHT 6PM AT THE TRI-AREA CC.

IT'S POT LUCK BUT YOU CAN JUST BRING WHATEVER YOU GOT IN THE FRIDGE THAT WON'T POISON ANYONE.

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Hi all,

Daniel and I at PLF's PNW office recently completed an article discussing the CAPR v. Sims case that you all may find interesting and particularly relevant with all of the shoreline updates lining up for challenges.

The Article examines how Washington State courts have allowed the precautionary principle to encroach upon the essential nexus test in the context of land use exactions. The essential nexus test requires government to establish a cause-and-effect connection between development and an identified public problem before placing conditions on development. The precautionary principle, however, endorses regulation of land use in the absence of causation. Although U.S. Supreme Court precedent requires government to prove causal connections, recent Washington case law shows that this test of causation is morphing into a less scrutinizing means-end test of rationality. This shift was evident in the recent case of Citizens' Alliance for Property Rights v. Sims. In that case, Washington courts found the government's generalized scientific assessments to satisfy the essential nexus test, even though the science did not establish a causal connection between clearing of rural properties and environmental harm due to stormwater runoff. The Article urges courts to take a more vigorous interest in protecting private property rights by making causation, not precaution, the driving principle of environmental regulation.

You can download a digital copy here: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1533574

Please feel free to share this link with anyone you know who may be interested.

Best,

Brian T. Hodges
Managing Attorney

11/1/2010

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11/1/2010