

'Takings' Snapshots Volume 5
February 13, 1998

1. Munoz Arill v. Maiz, 1998 WL 32544 (D.P.R. January 7, 1998) (rejecting motion to dismiss, either on the merits or on ripeness grounds, due process and takings claims asserted by homeowner improperly denied opportunity to intervene in state administrative proceeding in opposition to application to operate nearby day care center).

2. McQueen v. South Carolina Coastal Council, 1998 WL 11710 (S.C., January 12, 1998) (affirming, by a 2 to 1 vote, ruling that coastal council's denial of permit to bulkhead and fill two coastal lots effected a Lucas-type taking; dissent argued that claim was distinguishable from Lucas because owner did not seek to prevent erosion over the 30-year period after he acquired the property, the property had largely returned to a natural condition, and therefore owner lacked sufficient investment-backed expectations to support a takings claim).

3. Front Royal & Warren County Industrial Park Corp. v. Town of Front Royal, 1998 WL 21928 (4th. Cir., January 23, 1998) (in a more than 10-year old case that the court of appeals said "has already passed through procedural purgatory and wended its way to procedural hell," court of appeals reversed trial court finding of a taking, holding that town's illegal failure to extend sewer lines to serve plaintiff's property did not effect a taking because the action did not deprive the land of "all economic value or even close to that").

4. Boise Cascade Corp v. Board of Forestry (Before Oregon Circuit on remand from Oregon Supreme Court, 935 P. 2d 422) (On December 24, 1997, an Oregon circuit court awarded \$1,820,059 for a 'temporary taking' on a physical occupation theory, as a result of state agency regulations prohibiting logging within a 70-acre circle surrounding a nesting pair of spotted owls).