

'Takings' Snapshots Volume 6
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1. Dodd v. Hood River County, 1998 WL 57497 (9th Cir., February 13, 1998) (in the probable final installment of a long-running dispute which went through the Oregon State court system and then the federal courts, the Ninth Circuit affirmed the district courts dismissal of a taking challenge based on denial of the opportunity to construct a single family home in the Oregon Forest Use Zone, because denial served a legitimate state purpose and did not interfere with reasonable investment-backed expectations).

2. Wilkerson v. United States, 1997 WL 834828 (Fed.Cls., November 7, 1997) (dismissing takings suit based on allegedly improper IRS actions which led to business losses, because suit represents a tort action and fails to state a claim under the takings clause, and therefore is not within jurisdiction of Court of Federal Claims).

3. Main Union Associates v. Township of Little Falls Rent Leveling Board, 703 A.2nd 971 (N.J.App.Div., December 23, 1997) (rejecting a facial takings challenge to a municipal rent control ordinance on the ground that the ordinance does not allow a separate surcharge for capital improvements; the ordinance does provide for rent increases as necessary to allow the landlord to earn a reasonable rate of return).

4. DeCook v. City of Rochester, 1998 WL 73050 (Minn. App., February 24, 1998) (rejecting takings challenge to city's decision to rezone property from industrial to residential: (1) under Minnesota law because (a) rezoning did not deprive owner of *all reasonable use* of the property, and (b) no *governmental enterprise* was involved (in which case a taking could have been established simply by demonstrating a *substantial and measurable* decline in market value); and (2) under federal law, because the regulation served a legitimate state purpose and did not eliminate all economically viable use of the land).

5. Manufactured Housing Communities of Washington v. State of Washington, 1998 WL 81451 (Wash. Ct. Apps. February 27, 1998) (in facial challenge to Washington State law which grants mobile home park residents a right to purchase the park if the owner decides to sell, (1) Washington and federal takings clauses establish identical standards for regulatory takings, and (2) law does not effect a taking because right of first refusal is not a property interest and law does not effect a physical occupation).

6. GST Tucson Lightwave, Inc. v. City of Tucson, 949 P.2nd 971 (Az.Ct.Apps. January 23, 1997) (city's requirement that telephone company, as a condition of receiving a license for a local service franchise, give up license city previously issued to operate long-distance service, did not result in a taking, in part because Nollan/Dolan standard does not apply to every regulatory condition and is limited to conditions which effect a physical occupations and which are determined through adjudicative proceedings).

7. WJF Realty Corp. v. Town of Southampton (NY Sp. Ct., December 5, 1997) (town's regulatory delays in processing subdivision application, and temporary moratoria on development, resulted in violation of equal protection; using takings compensation standard for calculating damages, court awarded developer \$7,164,499.54 plus attorneys fees).