'Takings' Snapshots Volume 7
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1. Mayhew v. Town of Sunnyvale, 1998 WL 107927 (Texas, March 13, 1998) (reversing intermediate court of appeals, Texas Supreme Court ruled that decision by Town of Sunnyvale, a suburb of Dallas, to reject an application for a 3600-unit planned development was ripe for review; on the merits, the Court rejected, along with other constitutional claims, the taking claim, on the grounds that plaintiffs failed to establish that the denial failed to substantially advance a legitimate government interest, or that the denial denied plaintiffs all economically viable use of the property (the property retained a valued of $2.4 million), or unreasonably interfered with the plaintiffs' rights to use and enjoy their property (given that plaintiffs, who had long used most of the property for ranching, lacked reasonable investment-backed expectations to construct a 3600-unit development)).

2. Virginia Beach v. Bell, 1998 WL 120262 (Va. 1998) (on facts very similar to those in Lucas case, Virginia Supreme court reversed a finding of a taking based on city's rejection of an application to develop two coastal lots, because -- in contrast to Lucas -- the property owner purchased the property after the coastal restrictions had been adopted (despite fact that plaintiff acquired the property from a corporation (of which plaintiff owned 50%) which had purchased the property before the restrictions were enacted)).

3. Milagra Ridge Partners, Ltd v. City of Pacifica, 1998 WL 110092 (Cal.Ct.App., March 13, 1998) (rejecting takings claim on the ground that filing of an application for a general plan amendment, which was initially approved by the city and then rejected by the voters in a referendum, does not satisfy the finality prong of ripeness doctrine; futility exception not met because record does not support conclusion that no development of property would ever be allowed).

4. Fredericks v. Highland Township, 1998 WL 112883 (Mich. App., March 13, 1998) (although trial court found 3-acre minimum lot requirement invalid under substantive due process (which ruling was not appealed), intermediate appellate court affirmed rejection of claim that zoning also effected a taking; court rejected taking claim based on both ripeness grounds and because zoning did "not preclude the property's use for any reasonable purpose").

5. Manufactured Housing Communities of Washington v. State of Washington, 951 P.2nd 1142 (Wash.Ct.App., February 27, 1998) (rejecting facial takings challenge to Washington State law granting mobile home park residents right of first refusal to purchase park; relying on unique Washington State takings test set forth in Guimont, court rejected both physical and regulatory takings theories.)

6. Robbins v. United States, 949 P.2nd 971 (Az.Ct.Apps. January 23, 1997) 1998 WL 89272 (Fed.Cl., February 20, 1998) (dismissing takings claim based on alleged loss of land sales contract following delineation of land as wetlands, because contract cancellation was a private not a government action, and because economic impact and expectations factors did not support finding of a taking; futility exception does not allow owner to challenge CWA section 404 permitting requirements where owner has not even filed an application).

7. McLaughlin v. Town of Front Royal 1998 WL 119971 (D.W.D.Va., March 10, 1998) (dismissing takings and other claims based on town's failure to extend sewer service in timely fashion; claims were identical to those raised in, and were brought by sole shareholder of plaintiff in Front Royal and Warren County Industrial Park v. Town of Front Royal, 135 F.3rd 275 (4th Cir., January 23, 1998)).