

CLIENT NEWS BRIEF

U.S. Supreme Court Overrules Precedent And Opens the Federal Court Door to Takings Lawsuits Before Exhaustion of State Law Just Compensation Remedies

The Supreme Court of the United States held in *Knick v. Township of Scott* that plaintiffs claiming a local government action has interfered with their use of property may bring their constitutional “takings lawsuit” under 42 U.S.C. section 1983 directly in federal court, and before exhausting other related state law remedies. The Supreme Court’s opinion overruled a 34-year old precedent requiring plaintiffs to first seek just compensation under state law in state court. This is a major change in takings law, which alters long-held takings strategies used by local agencies.

The United States Constitution prohibits the “taking” of private property for public use without the payment of just compensation. In *Knick*, the Township of Scott informed a private landowner that her property, which contained a small graveyard, must be opened to the public during daylight hours, pursuant to a local cemetery ordinance. The landowner brought an action in federal court alleging that the ordinance’s mandatory public access requirement effected a “taking” of her property without the payment of just compensation. Existing, long standing Supreme Court precedent, specifically, the opinion in *Williamson County Regional Planning Commission v. Hamilton Bank of Johnson City*, required plaintiffs to first seek just compensation under state law in state court before bringing a federal takings claims. Because landowner had proceeded directly to federal court without first seeking a state court remedy, the U.S. District Court dismissed her action.

The 1985 *Williamson County* opinion had held that the constitutional prohibition on the taking of private property has not been violated until the government denies payment of just compensation. *Williamson County* drew from cases dating back to 1890 for the proposition that just compensation does not need to be paid to the private property owner at the time of the taking, provided a “reasonable, certain, and adequate” mechanism exists for obtaining just compensation, such as an inverse condemnation action in state court. On this authority, a plaintiff cannot bring a claim for violation of the takings clause until just compensation has been denied by the state. However, as a perhaps unintended consequence, federal law requires federal courts to give preclusive effect to state court decisions. This means that a plaintiff who loses its inverse condemnation case in state court would often be barred from then bringing a claim in federal court due to the issue preclusion rule.

In *Knick*, the Supreme Court overruled the *Williamson County* precedent, holding “[i]f a local government takes private property without paying for it, that government has violated the Fifth Amendment, just as the Takings Clause says, without regard to subsequent state court proceedings. And the property owner may sue the government at the time in federal court for the ‘deprivation’ of a right secured by the Constitution.” The assertion of an uncompensated taking is now enough to obtain immediate standing to sue in federal court on an immediate basis.

The Supreme Court’s *Knick* opinion decision means that plaintiffs may sue local governments in federal court for alleged “takings” without first bringing a state

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court inverse condemnation action.

For further information regarding the *Knick* opinion, or governmental land use and taking issues in general, please contact the authors of this Client News Brief or an attorney at one of our [eight offices](#) located statewide. You can also subscribe to our [podcast](#), follow us on [Facebook](#), [Twitter](#) and [LinkedIn](#) or download our [mobile app](#).

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