
Nollan v. California Coastal Commission (No. 86-133)
177 Cal.App.3d 719, 223 Cal.Rptr. 28, reversed.

Syllabus	Opinion [Scalia]	Dissent [Brennan]	Dissent [Blackmun]	Dissent [Stevens]
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Syllabus

SUPREME COURT OF THE UNITED STATES

483 U.S. 825

Nollan v. California Coastal Commission

APPEAL FROM THE COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE
DISTRICT

No. 86-133 Argued: March 30, 1987 --- Decided: June 26, 1987

The California Coastal Commission granted a permit to appellants to replace a small bungalow on their beachfront lot with a larger house upon the condition that they allow the public an easement to pass across their beach, which was located between two public beaches. The County Superior Court granted appellants a writ of administrative mandamus and directed that the permit condition be struck. However, the State Court of Appeal reversed, ruling that imposition of the condition did not violate the Takings Clause of the [Fifth Amendment](#), as incorporated against the States by the [Fourteenth Amendment](#).

Held:

1. Although the outright taking of an uncompensated, permanent, public access easement would violate the Takings Clause, conditioning appellants' rebuilding permit on their granting such an easement would be lawful land use regulation if it substantially furthered governmental purposes that would justify denial of the permit. The government's power to forbid particular land uses in order to advance some legitimate police power purpose includes the power to condition such use upon some concession by the owner, even a concession of property rights, so long as the condition furthers the same governmental purpose advanced as justification for prohibiting the use. Pp. 831-837.

2. Here, the Commission's imposition of the access easement condition cannot be treated as an exercise of land use regulation power, since the condition does not serve public purposes related to the permit requirement. Of those put forth to justify it -- protecting the public's ability to see the beach, assisting the public in overcoming a perceived "psychological" barrier to using the beach, and preventing beach congestion -- none is plausible. Moreover, the Commission's justification for the access requirement unrelated to land use regulation -- that it is part of a comprehensive program to provide beach access arising from prior coastal permit decisions -- is simply an expression of the belief that the public interest will be served by a continuous strip of publicly accessible beach. Although the State is free to advance its "comprehensive program" by exercising its eminent domain power and paying for access easements, it **[p826]** cannot compel coastal residents alone to contribute to the realization of that goal. Pp. 838-842.

SCALIA, J., delivered the opinion of the Court, in which REHNQUIST, C.J., and WHITE, POWELL, and O'CONNOR, JJ., joined. BRENNAN, J., filed a dissenting opinion, in which MARSHALL, J., joined, *post* p. 842. BLACKMUN, J., filed a dissenting opinion, *post* p. 865. STEVENS, J., filed a dissenting opinion, in which BLACKMUN, J., joined, *post* p. 866. **[p827]**