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Supreme Court Rules Against Property Owners in Takings Case.

The U.S. Supreme Court on Friday ruled against four siblings who [contended](#) zoning regulations constituted a taking of their Wisconsin vacation property.

The court ruled that there was no regulatory taking that required compensation to the landowners. Justice Anthony M. Kennedy wrote the majority [opinion](#) (PDF).

The siblings owned two adjacent lots; their cabin was on one of the lots. They had argued a taking occurred because of a regulation that barred them from selling the undeveloped lot separately.

The regulation prevented the sale because the adjacent lot didn't meet size requirements. A grandfather clause exempted adjacent, substandard-sized parcels that were separately owned, but the siblings didn't qualify for the exclusion.

Appraisals had valued the merged lots at \$698,300, and at \$771,000 if they were two separate properties.

The Supreme Court has previously held that there is a regulatory taking if the government prevents all economically viable use of a piece of property, University of California at Irvine law dean Erwin Chemerinsky explained in a [preview](#) of the case. If the two land parcels are considered separately, the zoning regulation is a taking. If they are considered as a whole, the government is not preventing all development.

The Supreme Court said the property should be considered as one parcel.

The siblings had argued that the lot lines always define the relevant parcel. Their argument, however, "ignores the fact that lot lines are themselves creatures of state law, which can be overridden by the state in the reasonable exercise of its power," Kennedy said.

The state had effectively merged the properties into one parcel when it enacted the zoning restriction, and it was "a legitimate exercise of the government's police power," Kennedy said.

"Merger provisions often form part of a regulatory scheme that establishes a minimum lot size in order to preserve open space while still allowing orderly development," Kennedy wrote.

Chief Justice John. G. Roberts Jr. dissented in an opinion joined by Justices Clarence Thomas and Samuel Anthony Alito Jr.

Roberts said he was not troubled by the majority's "bottom-line conclusion" that the property owners were not entitled to compensation. But he disagreed with the majority's multipart test for arriving at that conclusion and asserted that it will undermine takings clause protections.

The case is *Murr v. Wisconsin*.

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