

# **Bond Case Briefs**

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## **ZONING and DEVELOPMENT - FLORIDA**

### **Hillcrest Property, LLP v. Pasco County**

**United States District Court, M.D. Florida, Tampa Division - April 12, 2013 - F.Supp.2d - 24 Fla. L. Weekly Fed. D 33**

Property owner filed § 1983 action challenging constitutionality of county's regulatory regime, which required dedication of property within transportation corridor as precondition for development permit.

The District Court held that:

- Owner's claim was ripe;
- Owner's claim was timely;
- Ordinance violated owner's substantive due process rights;
- Ordinance did not violate owner's equal protection rights;
- Ordinance did not violate owner's right of access to courts; and
- Ordinance did not violate owner's right to trial by jury.

County's regulatory regime, which required dedication of property within transportation corridor as precondition for development permit, improperly used police power and was not rationally related to legitimate governmental purpose, and thus violated property owner's substantive due process rights, even though inverse condemnation remedy existed for each landowner subjected to ordinance.

Ordinance required county to prove nothing and empowered it to determine just compensation, if any, it would pay, ordinance did not require county to return any unused property to owner, and ordinance discriminated based on economic aspiration.

"Pasco County has enacted an ordinance that effects what, in more plain-spoken times, an informed observer would call a 'land grab,' the manifest purpose of which is to evade the constitutional requirement for 'just compensation,' that is, to grab land for free. Viewed more microscopically, Pasco County's Ordinance designs to accost a citizen as the citizen approaches the government to apply for a development permit, designs to withhold from a citizen the development permit unless the citizen yields to an extortionate demand to relinquish the constitutional right of 'just compensation,' and designs first and foremost to accumulate—for free—land for which a citizen would otherwise receive just compensation.