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## **Supreme Court Sides With Property Owners in Local Land-Use Case.**

***In 5-4 decision, high court eases property owners' ability to challenge local regulations in federal court***

WASHINGTON—The Supreme Court on Friday made it easier for property owners to challenge land-use regulations and seek compensation from the government, a ruling that revealed deep divisions between the court's conservative and liberal camps.

The court, in a 5-to-4 decision written by Chief Justice John Roberts, sided with a Pennsylvania woman who challenged a requirement by the rural community of Scott Township that she provide public access to a gravesite on her 90-acre property.

The chief justice, writing for the court's conservative majority, said landowner Rose Mary Knick could file a federal lawsuit that challenged a town ordinance on gravesite access and sought compensation for a "taking" of her property.

The decision overturned court precedent from 1985 that required property owners such as Ms. Knick to file litigation in state court first. Chief Justice Roberts said that requirement had proven to be "an unjustifiable burden" on property owners.

"Takings claims against local governments should be handled the same as other claims" for federal constitutional violations, the chief justice wrote in a 23-page opinion striking down the state-court-first requirement.

The ruling is likely to give federal judges more oversight of local land-use regulations since property owners will no longer need to initially go to state courts. Property-rights advocates have viewed state courts as more sympathetic to municipal officials than to landowners.

The ruling "gives property owners an opportunity to forum-shop" for courts more sympathetic to their arguments, said Michael Blumm, a professor at Lewis & Clark Law School. He said federal courts may be more willing to curb state and local land-use regulations, particularly with the recent infusion of conservative Trump appointees, than state courts in California and other areas with strong environmental laws.

The court's newest justice, Brett Kavanaugh, appeared to provide the tiebreaking vote in Ms. Knick's favor. An eight-justice court first considered the case last October before Justice Kavanaugh was confirmed to his seat. The court later scheduled the case for re-argument in January, a move that suggested it needed its new member to break a deadlock.

Also joining the majority were Justices Clarence Thomas, Samuel Alito and Neil Gorsuch.

The court's four liberal justices dissented and, for the second time in recent weeks, chided their conservative colleagues for overturning precedent.

Justice Elena Kagan, writing for the dissenters, quoted Justice Stephen Breyer, who last month criticized the court for overruling precedent in a state-sovereignty case.

“Today’s decision can only cause one to wonder which cases the court will overrule next,” Justice Breyer wrote in the earlier dissent.

On Friday, Justice Kagan doubled down. “Well, that didn’t take long,” she wrote. “Now one may wonder yet again.”

## **The Wall Street Journal**

By Brent Kendall and Jess Bravin

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