Justices Back Regulators In Property Rights Case

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The Supreme Court ruled yesterday that the Constitution does not require governments to pay compensation to landowners when agencies temporarily prohibit them from building on their land, a decision that strengthens the hand of environmental regulators against the conservative-led "property rights" movement.

By a vote of 6 to 3, the court rejected the argument of a group of California property owners that government freezes on development are tantamount to official seizures -- known in legal parlance as "takings" -- of private property and require compensation. Rather, the court held that such claims must be considered case by case, balanced against othe such as the duration of a development moratorium and the government's reasons fo

"Land-use regulations are ubiquitous and most of them impact property values in s tangential way -- often in completely unanticipated ways," Justice John Paul Steve the opinion for the court. "Treating them all as . . . takings would transform goverr regulation into a luxury few governments could afford."

In previous cases, the Supreme Court had been receptive to property owners' clain "regulatory takings." But yesterday's ruling signaled that the court's past support w unqualified, and that a majority of the justices may not share the property-rights m most ambitious goals.

As a result, a legal cloud has been lifted from over what a friend-of-the-court brief state governments called "a vital planning tool" for dealing with environmental co traffic and demands for services. The Bush administration also supported the regul

The court's opinion included examples of recent building moratoriums in jurisdicti from Fort Lauderdale, Fla., where officials were setting new standards for beachfr construction, to Aboite Township, Ind., which wanted to allow time for water and improvements.

"We have not had the Supreme Court in any recent takings case talking about the r government regulation of land use for preserving the environment, and Justice Ste the rationale," said Richard Lazarus, a professor of environmental law at Georgeto University who represented regulators in this case. "That is going to be important l planners and the lower courts."

The case emerged out of a decades-long legal battle between several hundred fami bought property during the 1970s around Lake Tahoe, which straddles the Califor border, and the Tahoe Regional Planning Agency (TRPA), a bi-state body respons protecting the lake's environment.

In 1981, the TRPA ordered the first of two moratoriums on development, eventual months. The agency said it needed time to draw up a long-term policy for managir related runoff that threatened to cloud the lake's transparent water.

Because of ensuing litigation, however, the temporary moratorium turned into a de development that has left the families still without the lakeside homes they dreame ago when they sank large sums of money into their Tahoe property.

The Supreme Court has recently ruled in favor of some claims that the denial of la through regulation should trigger the same Fifth Amendment guarantee of "just co as do outright seizures of property by government.

Last year, the court held that a Rhode Island property owner could press such a cla though he had bought his property after a regulation limiting its use was enacted.

Because of that history, coupled with the fact that in this case such an evident loss suffered by a sympathetic group of middle-class people, some in the property-righ viewed the case as a vehicle for persuading the court to expand its takings doctrine further.

It is unfair, property-rights supporters argued, for government to impose all the co a public resource on one group of citizens.

"No one in this case doubted the environmental purpose of preserving Lake Tahoe runoff triggered by construction," said Douglas W. Kmiec, dean of Catholic Unive School. "The question, however, was whether all of us who enjoy that beauty shou maintain it or only those unlucky few who . . . used their family savings to buy dev lots, but only after the first generation of housing had already caused some enviror harm."

But there were indications yesterday that the property owners, in seeking a ruling t freeze on development, regardless of duration, constitutes a taking requiring comp asked the court for too much, prompting it to issue an opinion that may have defin on its past support for property rights.

The court's two swing-vote justices, moderate conservatives Sandra Day O'Conno Anthony M. Kennedy, joined with Stevens and liberals David H. Souter, Ruth Bac and Stephen G. Breyer in the six-member majority.

Stevens's opinion quoted frequently from O'Connor's past writings to support his v extreme categorical rule that any deprivation of all economic use, no matter how b constitutes a compensable taking surely cannot be sustained."

Chief Justice William H. Rehnquist dissented in the case, joined by Justices Anton Clarence Thomas.

Rehnquist argued that the TRPA was responsible for six years of the time in whicl owners were not allowed to build, and noted that they were entitled to compensati taking because "a ban on all development lasting almost six years does not resemb traditional land-use planning device."