Zoning

Zoning history and facts

- New York City adopted the first comprehensive zoning code in 1916.
- Zoning is a tool of the police power.
- Zoning requirements are laid out in two documents: the zoning map and the zoning ordinance.

Constitutional challenges

Facial challenges

There have been notable legal challenges to zoning regulations. In 1926 the United States Supreme Court upheld zoning as a right of U.S. states (typically via their cities and counties) to impose on landowners. The case was Village of Euclid, Ohio v. Ambler Realty Co. (often shortened to Euclid v. Ambler), 272 U.S. 365 (1926). The village had zoned an area of land held by Ambler Realty as a residential neighborhood. Ambler argued that it would lose money because if the land could be leased to industrial users it would have netted a great deal more money than as a residential area. Euclid won, and a precedent was set favorable to local enforcement of zoning laws.

In doing so, the Court accepted the arguments of zoning defenders that it met two essential needs. First, zoning extended and improved on nuisance law in that it provided advance notice that certain types of uses were incompatible with other uses in a particular district. The second argument was that zoning was a necessary municipal-planning instrument.

The Euclid case was a facial challenge, meaning that the entire scheme of regulation was argued to be unconstitutional under any set of circumstances. The United States Supreme Court justified the ordinance saying that a community may enact reasonable laws to keep the pig out of the parlor, even if pigs may not be prohibited from the entire community.

Since the Euclid case, there have been no more facial challenges to the general scheme. By the late 1920s most of the nation had developed a set of zoning regulations that met the needs of the locality.

Takings

Generally speaking, Supreme Court cases now require that a regulation must “substantially advance legitimate state interests” to satisfy the taking clause. An important factor in land use taking cases is whether a land use regulation denies a landowner the “economically viable” use of his land. The Supreme Court and a majority
of the state courts hold that a landowner is not denied an economically viable use unless the land use regulation does not allow him to make any reasonable use of his land.

Background and cases:

Beginning in 1987, several United States Supreme Court cases ruled against land use regulations as being a *taking* requiring just *compensation* pursuant to the *Fifth Amendment to the Constitution*. *First English Evangelical Lutheran Church v. Los Angeles County* ruled that even a temporary taking may require compensation. *Nollan v. California Coastal Commission* ruled that *construction permit* (short: permit) conditions that fail to substantially advance the agency's authorized purposes require compensation. *Lucas v. South Carolina Coastal Council* ruled that numerous environmental concerns were not sufficient to deny all development without compensation. *Dolan v. City of Tigard* ruled that conditions of a permit must be roughly proportional to the impacts of the proposed new development. *Palazzolo v. Rhode Island* ruled property rights are not diminished by unconstitutional laws that exist without challenge at the time the complaining property owner acquired title.

However, the landowner victories have been mostly limited to the U.S. Supreme Court despite that Court's purported overriding authority. Each decision in favor of the landowner is based on the facts of the particular case, so that regulatory takings rulings in favor of landowners are little more than a landowners' mirage. Even the trend of the U.S. Supreme Court may now have reversed with the 2002 ruling in *Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency*. Justice *Sandra Day O'Connor*, who had previously ruled with a 5-4 majority in favor of the landowner, switched sides to favor the government that had delayed development for more than 20 years because of the government's own indecision about alleged concerns to the water quality of *Lake Tahoe*. 
Zoning

Zoning history and facts

- New York City adopted the first comprehensive zoning code in 1916.
- Zoning is a tool of the police power.
- Zoning requirements are laid out in two documents: the zoning map and the zoning ordinance.

Constitutional challenges

Facial challenges

There have been notable legal challenges to zoning regulations. In 1926 the United States Supreme Court upheld zoning as a right of U.S. states (typically via their cities and counties) to impose on landowners. The case was Village of Euclid, Ohio v. Ambler Realty Co. (often shortened to Euclid v. Ambler), 272 U.S. 365 (1926). The village had zoned an area of land held by Ambler Realty as a residential neighborhood. Ambler argued that it would lose money because if the land could be leased to industrial users it would have netted a great deal more money than as a residential area. Euclid won, and a precedent was set favorable to local enforcement of zoning laws.

In doing so, the Court accepted the arguments of zoning defenders that it met two essential needs. First, zoning extended and improved on nuisance law in that it provided advance notice that certain types of uses were incompatible with other uses in a particular district. The second argument was that zoning was a necessary municipal-planning instrument.

The Euclid case was a facial challenge, meaning that the entire scheme of regulation was argued to be unconstitutional under any set of circumstances. The United States Supreme Court justified the ordinance saying that a community may enact reasonable laws to keep the pig out of the parlor, even if pigs may not be prohibited from the entire community.

Since the Euclid case, there have been no more facial challenges to the general scheme. By the late 1920s most of the nation had developed a set of zoning regulations that met the needs of the locality.

Takings

Generally speaking, Supreme Court cases now require that a regulation must “substantially advance legitimate state interests” to satisfy the taking clause. An important factor in land use taking cases is whether a land use regulation denies a landowner the “economically viable” use of his land. The Supreme Court and a majority
of the state courts hold that a landowner is not denied an economically viable use unless the land use regulation does not allow him to make any reasonable use of his land.

Background and cases:

Beginning in 1987, several United States Supreme Court cases ruled against land use regulations as being a taking requiring just compensation pursuant to the Fifth Amendment to the Constitution. First English Evangelical Lutheran Church v. Los Angeles County ruled that even a temporary taking may require compensation. Nollan v. California Coastal Commission ruled that construction permit (short: permit) conditions that fail to substantially advance the agency's authorized purposes require compensation. Lucas v. South Carolina Coastal Council ruled that numerous environmental concerns were not sufficient to deny all development without compensation. Dolan v. City of Tigard ruled that conditions of a permit must be roughly proportional to the impacts of the proposed new development. Palazzolo v. Rhode Island ruled property rights are not diminished by unconstitutional laws that exist without challenge at the time the complaining property owner acquired title.

However, the landowner victories have been mostly limited to the U.S. Supreme Court despite that Court's purported overriding authority. Each decision in favor of the landowner is based on the facts of the particular case, so that regulatory takings rulings in favor of landowners are little more than a landowners' mirage. Even the trend of the U.S. Supreme Court may now have reversed with the 2002 ruling in Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency. Justice Sandra Day O'Connor, who had previously ruled with a 5-4 majority in favor of the landowner, switched sides to favor the government that had delayed development for more than 20 years because of the government's own indecision about alleged concerns to the water quality of Lake Tahoe.
Zoning

Zoning history and facts

- New York City adopted the first comprehensive zoning code in 1916.
- Zoning is a tool of the police power.
- Zoning requirements are laid out in two documents: the zoning map and the zoning ordinance.

Constitutional challenges

Facial challenges

There have been notable legal challenges to zoning regulations. In 1926 the United States Supreme Court upheld zoning as a right of U.S. states (typically via their cities and counties) to impose on landowners. The case was Village of Euclid, Ohio v. Ambler Realty Co. (often shortened to Euclid v. Ambler), 272 U.S. 365 (1926). The village had zoned an area of land held by Ambler Realty as a residential neighborhood. Ambler argued that it would lose money because if the land could be leased to industrial users it would have netted a great deal more money than as a residential area. Euclid won, and a precedent was set favorable to local enforcement of zoning laws.

In doing so, the Court accepted the arguments of zoning defenders that it met two essential needs. First, zoning extended and improved on nuisance law in that it provided advance notice that certain types of uses were incompatible with other uses in a particular district. The second argument was that zoning was a necessary municipal-planning instrument.

The Euclid case was a facial challenge, meaning that the entire scheme of regulation was argued to be unconstitutional under any set of circumstances. The United States Supreme Court justified the ordinance saying that a community may enact reasonable laws to keep the pig out of the parlor, even if pigs may not be prohibited from the entire community.

Since the Euclid case, there have been no more facial challenges to the general scheme. By the late 1920s most of the nation had developed a set of zoning regulations that met the needs of the locality.

Takings

Generally speaking, Supreme Court cases now require that a regulation must “substantially advance legitimate state interests” to satisfy the taking clause. An important factor in land use taking cases is whether a land use regulation denies a landowner the “economically viable” use of his land. The Supreme Court and a majority
of the state courts hold that a landowner is not denied an economically viable use unless the land use regulation does not allow him to make any reasonable use of his land.

Background and cases:

Beginning in 1987, several United States Supreme Court cases ruled against land use regulations as being a taking requiring just compensation pursuant to the Fifth Amendment to the Constitution. *First English Evangelical Lutheran Church v. Los Angeles County* ruled that even a temporary taking may require compensation. *Nollan v. California Coastal Commission* ruled that construction permit (short: permit) conditions that fail to substantially advance the agency's authorized purposes require compensation. *Lucas v. South Carolina Coastal Council* ruled that numerous environmental concerns were not sufficient to deny all development without compensation. *Dolan v. City of Tigard* ruled that conditions of a permit must be roughly proportional to the impacts of the proposed new development. *Palazzolo v. Rhode Island* ruled property rights are not diminished by unconstitutional laws that exist without challenge at the time the complaining property owner acquired title.

However, the landowner victories have been mostly limited to the U.S. Supreme Court despite that Court's purported overriding authority. Each decision in favor of the landowner is based on the facts of the particular case, so that regulatory takings rulings in favor of landowners are little more than a landowners' mirage. Even the trend of the U.S. Supreme Court may now have reversed with the 2002 ruling in *Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency*. Justice Sandra Day O'Connor, who had previously ruled with a 5-4 majority in favor of the landowner, switched sides to favor the government that had delayed development for more than 20 years because of the government's own indecision about alleged concerns to the water quality of Lake Tahoe.
Zoning

Zoning history and facts

- New York City adopted the first comprehensive zoning code in 1916.
- Zoning is a tool of the police power.
- Zoning requirements are laid out in two documents: the zoning map and the zoning ordinance.

Constitutional challenges

Facial challenges

There have been notable legal challenges to zoning regulations. In 1926 the United States Supreme Court upheld zoning as a right of U.S. states (typically via their cities and counties) to impose on landowners. The case was *Village of Euclid, Ohio v. Ambler Realty Co.* (often shortened to *Euclid v. Ambler*), 272 U.S. 365 (1926). The village had zoned an area of land held by Ambler Realty as a residential neighborhood. Ambler argued that it would lose money because if the land could be leased to industrial users it would have netted a great deal more money than as a residential area. Euclid won, and a precedent was set favorable to local enforcement of zoning laws.

In doing so, the Court accepted the arguments of zoning defenders that it met two essential needs. First, zoning extended and improved on nuisance law in that it provided advance notice that certain types of uses were incompatible with other uses in a particular district. The second argument was that zoning was a necessary municipal-planning instrument.

The Euclid case was a facial challenge, meaning that the entire scheme of regulation was argued to be unconstitutional under any set of circumstances. The United States Supreme Court justified the ordinance saying that a community may enact reasonable laws to keep the pig out of the parlor, even if pigs may not be prohibited from the entire community.

Since the Euclid case, there have been no more facial challenges to the general scheme. By the late 1920s most of the nation had developed a set of zoning regulations that met the needs of the locality.

Takings

Generally speaking, Supreme Court cases now require that a regulation must “substantially advance legitimate state interests” to satisfy the taking clause. An important factor in land use taking cases is whether a land use regulation denies a landowner the “economically viable” use of his land. The Supreme Court and a majority
of the state courts hold that a landowner is not denied an economically viable use unless the land use regulation does not allow him to make any reasonable use of his land.

Background and cases:

Beginning in 1987, several United States Supreme Court cases ruled against land use regulations as being a taking requiring just compensation pursuant to the Fifth Amendment to the Constitution. First English Evangelical Lutheran Church v. Los Angeles County ruled that even a temporary taking may require compensation. Nollan v. California Coastal Commission ruled that construction permit (short: permit) conditions that fail to substantially advance the agency's authorized purposes require compensation. Lucas v. South Carolina Coastal Council ruled that numerous environmental concerns were not sufficient to deny all development without compensation. Dolan v. City of Tigard ruled that conditions of a permit must be roughly proportional to the impacts of the proposed new development. Palazzolo v. Rhode Island ruled property rights are not diminished by unconstitutional laws that exist without challenge at the time the complaining property owner acquired title.

However, the landowner victories have been mostly limited to the U.S. Supreme Court despite that Court's purported overriding authority. Each decision in favor of the landowner is based on the facts of the particular case, so that regulatory takings rulings in favor of landowners are little more than a landowners' mirage. Even the trend of the U.S. Supreme Court may now have reversed with the 2002 ruling in Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency. Justice Sandra Day O'Connor, who had previously ruled with a 5-4 majority in favor of the landowner, switched sides to favor the government that had delayed development for more than 20 years because of the government's own indecision about alleged concerns to the water quality of Lake Tahoe.
Zoning

Zoning history and facts

- New York City adopted the first comprehensive zoning code in 1916.
- Zoning is a tool of the police power.
- Zoning requirements are laid out in two documents: the zoning map and the zoning ordinance.

Constitutional challenges

Facial challenges

There have been notable legal challenges to zoning regulations. In 1926 the United States Supreme Court upheld zoning as a right of U.S. states (typically via their cities and counties) to impose on landowners. The case was Village of Euclid, Ohio v. Ambler Realty Co. (often shortened to Euclid v. Ambler), 272 U.S. 365 (1926). The village had zoned an area of land held by Ambler Realty as a residential neighborhood. Ambler argued that it would lose money because if the land could be leased to industrial users it would have netted a great deal more money than as a residential area. Euclid won, and a precedent was set favorable to local enforcement of zoning laws.

In doing so, the Court accepted the arguments of zoning defenders that it met two essential needs. First, zoning extended and improved on nuisance law in that it provided advance notice that certain types of uses were incompatible with other uses in a particular district. The second argument was that zoning was a necessary municipal-planning instrument.

The Euclid case was a facial challenge, meaning that the entire scheme of regulation was argued to be unconstitutional under any set of circumstances. The United States Supreme Court justified the ordinance saying that a community may enact reasonable laws to keep the pig out of the parlor, even if pigs may not be prohibited from the entire community.

Since the Euclid case, there have been no more facial challenges to the general scheme. By the late 1920s most of the nation had developed a set of zoning regulations that met the needs of the locality.

Takings

Generally speaking, Supreme Court cases now require that a regulation must “substantially advance legitimate state interests” to satisfy the taking clause. An important factor in land use taking cases is whether a land use regulation denies a landowner the “economically viable” use of his land. The Supreme Court and a majority
of the state courts hold that a landowner is not denied an economically viable use unless the land use regulation does not allow him to make any reasonable use of his land.

Background and cases:

Beginning in 1987, several United States Supreme Court cases ruled against land use regulations as being a **taking** requiring just **compensation** pursuant to the **Fifth Amendment to the Constitution**. *First English Evangelical Lutheran Church v. Los Angeles County* ruled that even a temporary taking may require compensation. *Nollan v. California Coastal Commission* ruled that **construction permit** (short: permit) conditions that fail to substantially advance the agency's authorized purposes require compensation. *Lucas v. South Carolina Coastal Council* ruled that numerous environmental concerns were not sufficient to deny all development without compensation. *Dolan v. City of Tigard* ruled that conditions of a permit must be roughly proportional to the impacts of the proposed new development. *Palazzolo v. Rhode Island* ruled property rights are not diminished by unconstitutional laws that exist without challenge at the time the complaining property owner acquired title.

However, the landowner victories have been mostly limited to the U.S. Supreme Court despite that Court's purported overriding authority. Each decision in favor of the landowner is based on the facts of the particular case, so that regulatory takings rulings in favor of landowners are little more than a landowners' mirage. Even the trend of the U.S. Supreme Court may now have reversed with the 2002 ruling in *Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency*. Justice Sandra Day O'Connor, who had previously ruled with a 5-4 majority in favor of the landowner, switched sides to favor the government that had delayed development for more than 20 years because of the government's own indecision about alleged concerns to the water quality of **Lake Tahoe**.
Zoning

Zoning history and facts

- New York City adopted the first comprehensive zoning code in 1916.
- Zoning is a tool of the police power.
- Zoning requirements are laid out in two documents: the zoning map and the zoning ordinance.

Constitutional challenges

Facial challenges

There have been notable legal challenges to zoning regulations. In 1926 the United States Supreme Court upheld zoning as a right of U.S. states (typically via their cities and counties) to impose on landowners. The case was Village of Euclid, Ohio v. Ambler Realty Co. (often shortened to Euclid v. Ambler), 272 U.S. 365 (1926). The village had zoned an area of land held by Ambler Realty as a residential neighborhood. Ambler argued that it would lose money because if the land could be leased to industrial users it would have netted a great deal more money than as a residential area. Euclid won, and a precedent was set favorable to local enforcement of zoning laws.

In doing so, the Court accepted the arguments of zoning defenders that it met two essential needs. First, zoning extended and improved on nuisance law in that it provided advance notice that certain types of uses were incompatible with other uses in a particular district. The second argument was that zoning was a necessary municipal-planning instrument.

The Euclid case was a facial challenge, meaning that the entire scheme of regulation was argued to be unconstitutional under any set of circumstances. The United States Supreme Court justified the ordinance saying that a community may enact reasonable laws to keep the pig out of the parlor, even if pigs may not be prohibited from the entire community.

Since the Euclid case, there have been no more facial challenges to the general scheme. By the late 1920s most of the nation had developed a set of zoning regulations that met the needs of the locality.

Takings

Generally speaking, Supreme Court cases now require that a regulation must “substantially advance legitimate state interests” to satisfy the taking clause. An important factor in land use taking cases is whether a land use regulation denies a landowner the “economically viable” use of his land. The Supreme Court and a majority
of the state courts hold that a landowner is not denied an economically viable use unless the land use regulation does not allow him to make any reasonable use of his land.

Background and cases:

Beginning in 1987, several United States Supreme Court cases ruled against land use regulations as being a taking requiring just compensation pursuant to the Fifth Amendment to the Constitution. First English Evangelical Lutheran Church v. Los Angeles County ruled that even a temporary taking may require compensation. Nollan v. California Coastal Commission ruled that construction permit (short: permit) conditions that fail to substantially advance the agency's authorized purposes require compensation. Lucas v. South Carolina Coastal Council ruled that numerous environmental concerns were not sufficient to deny all development without compensation. Dolan v. City of Tigard ruled that conditions of a permit must be roughly proportional to the impacts of the proposed new development. Palazzolo v. Rhode Island ruled property rights are not diminished by unconstitutional laws that exist without challenge at the time the complaining property owner acquired title.

However, the landowner victories have been mostly limited to the U.S. Supreme Court despite that Court's purported overriding authority. Each decision in favor of the landowner is based on the facts of the particular case, so that regulatory takings rulings in favor of landowners are little more than a landowners' mirage. Even the trend of the U.S. Supreme Court may now have reversed with the 2002 ruling in Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency. Justice Sandra Day O'Connor, who had previously ruled with a 5-4 majority in favor of the landowner, switched sides to favor the government that had delayed development for more than 20 years because of the government's own indecision about alleged concerns to the water quality of Lake Tahoe.
Zoning

Zoning history and facts

- New York City adopted the first comprehensive zoning code in 1916.
- Zoning is a tool of the police power.
- Zoning requirements are laid out in two documents: the zoning map and the zoning ordinance.

Constitutional challenges

Facial challenges

There have been notable legal challenges to zoning regulations. In 1926 the United States Supreme Court upheld zoning as a right of U.S. states (typically via their cities and counties) to impose on landowners. The case was Village of Euclid, Ohio v. Ambler Realty Co. (often shortened to Euclid v. Ambler), 272 U.S. 365 (1926). The village had zoned an area of land held by Ambler Realty as a residential neighborhood. Ambler argued that it would lose money because if the land could be leased to industrial users it would have netted a great deal more money than as a residential area. Euclid won, and a precedent was set favorable to local enforcement of zoning laws.

In doing so, the Court accepted the arguments of zoning defenders that it met two essential needs. First, zoning extended and improved on nuisance law in that it provided advance notice that certain types of uses were incompatible with other uses in a particular district. The second argument was that zoning was a necessary municipal-planning instrument.

The Euclid case was a facial challenge, meaning that the entire scheme of regulation was argued to be unconstitutional under any set of circumstances. The United States Supreme Court justified the ordinance saying that a community may enact reasonable laws to keep the pig out of the parlor, even if pigs may not be prohibited from the entire community.

Since the Euclid case, there have been no more facial challenges to the general scheme. By the late 1920s most of the nation had developed a set of zoning regulations that met the needs of the locality.

Takings

Generally speaking, Supreme Court cases now require that a regulation must “substantially advance legitimate state interests” to satisfy the taking clause. An important factor in land use taking cases is whether a land use regulation denies a landowner the “economically viable” use of his land. The Supreme Court and a majority
of the state courts hold that a landowner is not denied an economically viable use unless the land use regulation does not allow him to make any reasonable use of his land.

Background and cases:

Beginning in 1987, several United States Supreme Court cases ruled against land use regulations as being a taking requiring just compensation pursuant to the Fifth Amendment to the Constitution. *First English Evangelical Lutheran Church v. Los Angeles County* ruled that even a temporary taking may require compensation. *Nollan v. California Coastal Commission* ruled that construction permit (short: permit) conditions that fail to substantially advance the agency's authorized purposes require compensation. *Lucas v. South Carolina Coastal Council* ruled that numerous environmental concerns were not sufficient to deny all development without compensation. *Dolan v. City of Tigard* ruled that conditions of a permit must be roughly proportional to the impacts of the proposed new development. *Palazzolo v. Rhode Island* ruled property rights are not diminished by unconstitutional laws that exist without challenge at the time the complaining property owner acquired title.

However, the landowner victories have been mostly limited to the U.S. Supreme Court despite that Court's purported overriding authority. Each decision in favor of the landowner is based on the facts of the particular case, so that regulatory takings rulings in favor of landowners are little more than a landowners' mirage. Even the trend of the U.S. Supreme Court may now have reversed with the 2002 ruling in *Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency*. Justice Sandra Day O'Connor, who had previously ruled with a 5-4 majority in favor of the landowner, switched sides to favor the government that had delayed development for more than 20 years because of the government's own indecision about alleged concerns to the water quality of Lake Tahoe.
Zoning

Zoning history and facts

- New York City adopted the first comprehensive zoning code in 1916.
- Zoning is a tool of the police power.
- Zoning requirements are laid out in two documents: the zoning map and the zoning ordinance.

Constitutional challenges

Facial challenges

There have been notable legal challenges to zoning regulations. In 1926 the United States Supreme Court upheld zoning as a right of U.S. states (typically via their cities and counties) to impose on landowners. The case was Village of Euclid, Ohio v. Ambler Realty Co. (often shortened to Euclid v. Ambler), 272 U.S. 365 (1926). The village had zoned an area of land held by Ambler Realty as a residential neighborhood. Ambler argued that it would lose money because if the land could be leased to industrial users it would have netted a great deal more money than as a residential area. Euclid won, and a precedent was set favorable to local enforcement of zoning laws.

In doing so, the Court accepted the arguments of zoning defenders that it met two essential needs. First, zoning extended and improved on nuisance law in that it provided advance notice that certain types of uses were incompatible with other uses in a particular district. The second argument was that zoning was a necessary municipal-planning instrument.

The Euclid case was a facial challenge, meaning that the entire scheme of regulation was argued to be unconstitutional under any set of circumstances. The United States Supreme Court justified the ordinance saying that a community may enact reasonable laws to keep the pig out of the parlor, even if pigs may not be prohibited from the entire community.

Since the Euclid case, there have been no more facial challenges to the general scheme. By the late 1920s most of the nation had developed a set of zoning regulations that met the needs of the locality.

Takings

Generally speaking, Supreme Court cases now require that a regulation must “substantially advance legitimate state interests” to satisfy the taking clause. An important factor in land use taking cases is whether a land use regulation denies a landowner the “economically viable” use of his land. The Supreme Court and a majority
of the state courts hold that a landowner is not denied an economically viable use unless the land use regulation does not allow him to make any reasonable use of his land.

Background and cases:

Beginning in 1987, several United States Supreme Court cases ruled against land use regulations as being a taking requiring just compensation pursuant to the Fifth Amendment to the Constitution. First English Evangelical Lutheran Church v. Los Angeles County ruled that even a temporary taking may require compensation. Nollan v. California Coastal Commission ruled that construction permit (short: permit) conditions that fail to substantially advance the agency's authorized purposes require compensation. Lucas v. South Carolina Coastal Council ruled that numerous environmental concerns were not sufficient to deny all development without compensation. Dolan v. City of Tigard ruled that conditions of a permit must be roughly proportional to the impacts of the proposed new development. Palazzolo v. Rhode Island ruled property rights are not diminished by unconstitutional laws that exist without challenge at the time the complaining property owner acquired title.

However, the landowner victories have been mostly limited to the U.S. Supreme Court despite that Court's purported overriding authority. Each decision in favor of the landowner is based on the facts of the particular case, so that regulatory takings rulings in favor of landowners are little more than a landowners' mirage. Even the trend of the U.S. Supreme Court may now have reversed with the 2002 ruling in Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency. Justice Sandra Day O'Connor, who had previously ruled with a 5-4 majority in favor of the landowner, switched sides to favor the government that had delayed development for more than 20 years because of the government's own indecision about alleged concerns to the water quality of Lake Tahoe.
Zoning

Zoning history and facts

- New York City adopted the first comprehensive zoning code in 1916.
- Zoning is a tool of the police power.
- Zoning requirements are laid out in two documents: the zoning map and the zoning ordinance.

Constitutional challenges

Facial challenges

There have been notable legal challenges to zoning regulations. In 1926 the United States Supreme Court upheld zoning as a right of U.S. states (typically via their cities and counties) to impose on landowners. The case was Village of Euclid, Ohio v. Ambler Realty Co. (often shortened to Euclid v. Ambler), 272 U.S. 365 (1926). The village had zoned an area of land held by Ambler Realty as a residential neighborhood. Ambler argued that it would lose money because if the land could be leased to industrial users it would have netted a great deal more money than as a residential area. Euclid won, and a precedent was set favorable to local enforcement of zoning laws.

In doing so, the Court accepted the arguments of zoning defenders that it met two essential needs. First, zoning extended and improved on nuisance law in that it provided advance notice that certain types of uses were incompatible with other uses in a particular district. The second argument was that zoning was a necessary municipal-planning instrument.

The Euclid case was a facial challenge, meaning that the entire scheme of regulation was argued to be unconstitutional under any set of circumstances. The United States Supreme Court justified the ordinance saying that a community may enact reasonable laws to keep the pig out of the parlor, even if pigs may not be prohibited from the entire community.

Since the Euclid case, there have been no more facial challenges to the general scheme. By the late 1920s most of the nation had developed a set of zoning regulations that met the needs of the locality.

Takings

Generally speaking, Supreme Court cases now require that a regulation must “substantially advance legitimate state interests” to satisfy the taking clause. An important factor in land use taking cases is whether a land use regulation denies a landowner the “economically viable” use of his land. The Supreme Court and a majority
of the state courts hold that a landowner is not denied an economically viable use unless the land use regulation does not allow him to make any reasonable use of his land.

Background and cases:

Beginning in 1987, several United States Supreme Court cases ruled against land use regulations as being a taking requiring just compensation pursuant to the Fifth Amendment to the Constitution. *First English Evangelical Lutheran Church v. Los Angeles County* ruled that even a temporary taking may require compensation. *Nollan v. California Coastal Commission* ruled that construction permit (short: permit) conditions that fail to substantially advance the agency's authorized purposes require compensation. *Lucas v. South Carolina Coastal Council* ruled that numerous environmental concerns were not sufficient to deny all development without compensation. *Dolan v. City of Tigard* ruled that conditions of a permit must be roughly proportional to the impacts of the proposed new development. *Palazzolo v. Rhode Island* ruled property rights are not diminished by unconstitutional laws that exist without challenge at the time the complaining property owner acquired title.

However, the landowner victories have been mostly limited to the U.S. Supreme Court despite that Court's purported overriding authority. Each decision in favor of the landowner is based on the facts of the particular case, so that regulatory takings rulings in favor of landowners are little more than a landowners' mirage. Even the trend of the U.S. Supreme Court may now have reversed with the 2002 ruling in *Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency*. Justice Sandra Day O'Connor, who had previously ruled with a 5-4 majority in favor of the landowner, switched sides to favor the government that had delayed development for more than 20 years because of the government's own indecision about alleged concerns to the water quality of Lake Tahoe.
Zoning

Zoning history and facts

- New York City adopted the first comprehensive zoning code in 1916.
- Zoning is a tool of the police power.
- Zoning requirements are laid out in two documents: the zoning map and the zoning ordinance.

Constitutional challenges

Facial challenges

There have been notable legal challenges to zoning regulations. In 1926 the United States Supreme Court upheld zoning as a right of U.S. states (typically via their cities and counties) to impose on landowners. The case was Village of Euclid, Ohio v. Ambler Realty Co. (often shortened to Euclid v. Ambler), 272 U.S. 365 (1926). The village had zoned an area of land held by Ambler Realty as a residential neighborhood. Ambler argued that it would lose money because it the land could be leased to industrial users it would have netted a great deal more money than as a residential area. Euclid won, and a precedent was set favorable to local enforcement of zoning laws.

In doing so, the Court accepted the arguments of zoning defenders that it met two essential needs. First, zoning extended and improved on nuisance law in that it provided advance notice that certain types of uses were incompatible with other uses in a particular district. The second argument was that zoning was a necessary municipal-planning instrument.

The Euclid case was a facial challenge, meaning that the entire scheme of regulation was argued to be unconstitutional under any set of circumstances. The United States Supreme Court justified the ordinance saying that a community may enact reasonable laws to keep the pig out of the parlor, even if pigs may not be prohibited from the entire community.

Since the Euclid case, there have been no more facial challenges to the general scheme. By the late 1920s most of the nation had developed a set of zoning regulations that met the needs of the locality.

Takings

Generally speaking, Supreme Court cases now require that a regulation must “substantially advance legitimate state interests” to satisfy the taking clause. An important factor in land use taking cases is whether a land use regulation denies a landowner the “economically viable” use of his land. The Supreme Court and a majority
of the state courts hold that a landowner is not denied an economically viable use unless the land use regulation does not allow him to make any reasonable use of his land.

Background and cases:

Beginning in 1987, several United States Supreme Court cases ruled against land use regulations as being a taking requiring just compensation pursuant to the Fifth Amendment to the Constitution. First English Evangelical Lutheran Church v. Los Angeles County ruled that even a temporary taking may require compensation. Nollan v. California Coastal Commission ruled that construction permit (short: permit) conditions that fail to substantially advance the agency's authorized purposes require compensation. Lucas v. South Carolina Coastal Council ruled that numerous environmental concerns were not sufficient to deny all development without compensation. Dolan v. City of Tigard ruled that conditions of a permit must be roughly proportional to the impacts of the proposed new development. Palazzolo v. Rhode Island ruled property rights are not diminished by unconstitutional laws that exist without challenge at the time the complaining property owner acquired title.

However, the landowner victories have been mostly limited to the U.S. Supreme Court despite that Court's purported overriding authority. Each decision in favor of the landowner is based on the facts of the particular case, so that regulatory takings rulings in favor of landowners are little more than a landowners' mirage. Even the trend of the U.S. Supreme Court may now have reversed with the 2002 ruling in Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency. Justice Sandra Day O'Connor, who had previously ruled with a 5-4 majority in favor of the landowner, switched sides to favor the government that had delayed development for more than 20 years because of the government's own indecision about alleged concerns to the water quality of Lake Tahoe.
Zoning

Zoning history and facts

- New York City adopted the first comprehensive zoning code in 1916.
- Zoning is a tool of the police power.
- Zoning requirements are laid out in two documents: the zoning map and the zoning ordinance.

Constitutional challenges

Facial challenges

There have been notable legal challenges to zoning regulations. In 1926 the United States Supreme Court upheld zoning as a right of U.S. states (typically via their cities and counties) to impose on landowners. The case was Village of Euclid, Ohio v. Ambler Realty Co. (often shortened to Euclid v. Ambler), 272 U.S. 365 (1926). The village had zoned an area of land held by Ambler Realty as a residential neighborhood. Ambler argued that it would lose money because if the land could be leased to industrial users it would have netted a great deal more money than as a residential area. Euclid won, and a precedent was set favorable to local enforcement of zoning laws.

In doing so, the Court accepted the arguments of zoning defenders that it met two essential needs. First, zoning extended and improved on nuisance law in that it provided advance notice that certain types of uses were incompatible with other uses in a particular district. The second argument was that zoning was a necessary municipal-planning instrument.

The Euclid case was a facial challenge, meaning that the entire scheme of regulation was argued to be unconstitutional under any set of circumstances. The United States Supreme Court justified the ordinance saying that a community may enact reasonable laws to keep the pig out of the parlor, even if pigs may not be prohibited from the entire community.

Since the Euclid case, there have been no more facial challenges to the general scheme. By the late 1920s most of the nation had developed a set of zoning regulations that met the needs of the locality.

Takings

Generally speaking, Supreme Court cases now require that a regulation must “substantially advance legitimate state interests” to satisfy the taking clause. An important factor in land use taking cases is whether a land use regulation denies a landowner the “economically viable” use of his land. The Supreme Court and a majority
of the state courts hold that a landowner is not denied an economically viable use unless the land use regulation does not allow him to make any reasonable use of his land.

Background and cases:

Beginning in 1987, several United States Supreme Court cases ruled against land use regulations as being a taking requiring just compensation pursuant to the Fifth Amendment to the Constitution. *First English Evangelical Lutheran Church v. Los Angeles County* ruled that even a temporary taking may require compensation. *Nollan v. California Coastal Commission* ruled that construction permit (short: permit) conditions that fail to substantially advance the agency's authorized purposes require compensation. *Lucas v. South Carolina Coastal Council* ruled that numerous environmental concerns were not sufficient to deny all development without compensation. *Dolan v. City of Tigard* ruled that conditions of a permit must be roughly proportional to the impacts of the proposed new development. *Palazzolo v. Rhode Island* ruled property rights are not diminished by unconstitutional laws that exist without challenge at the time the complaining property owner acquired title.

However, the landowner victories have been mostly limited to the U.S. Supreme Court despite that Court's purported overriding authority. Each decision in favor of the landowner is based on the facts of the particular case, so that regulatory takings rulings in favor of landowners are little more than a landowners' mirage. Even the trend of the U.S. Supreme Court may now have reversed with the 2002 ruling in *Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency*. Justice Sandra Day O'Connor, who had previously ruled with a 5-4 majority in favor of the landowner, switched sides to favor the government that had delayed development for more than 20 years because of the government's own indecision about alleged concerns to the water quality of *Lake Tahoe*. 
Zoning

Zoning history and facts

- New York City adopted the first comprehensive zoning code in 1916.
- Zoning is a tool of the police power.
- Zoning requirements are laid out in two documents: the zoning map and the zoning ordinance.

Constitutional challenges

Facial challenges

There have been notable legal challenges to zoning regulations. In 1926 the United States Supreme Court upheld zoning as a right of U.S. states (typically via their cities and counties) to impose on landowners. The case was Village of Euclid, Ohio v. Ambler Realty Co. (often shortened to Euclid v. Ambler), 272 U.S. 365 (1926). The village had zoned an area of land held by Ambler Realty as a residential neighborhood. Ambler argued that it would lose money because if the land could be leased to industrial users it would have netted a great deal more money than as a residential area. Euclid won, and a precedent was set favorable to local enforcement of zoning laws.

In doing so, the Court accepted the arguments of zoning defenders that it met two essential needs. First, zoning extended and improved on nuisance law in that it provided advance notice that certain types of uses were incompatible with other uses in a particular district. The second argument was that zoning was a necessary municipal-planning instrument.

The Euclid case was a facial challenge, meaning that the entire scheme of regulation was argued to be unconstitutional under any set of circumstances. The United States Supreme Court justified the ordinance saying that a community may enact reasonable laws to keep the pig out of the parlor, even if pigs may not be prohibited from the entire community.

Since the Euclid case, there have been no more facial challenges to the general scheme. By the late 1920s most of the nation had developed a set of zoning regulations that met the needs of the locality.

Takings

Generally speaking, Supreme Court cases now require that a regulation must “substantially advance legitimate state interests” to satisfy the taking clause. An important factor in land use taking cases is whether a land use regulation denies a landowner the “economically viable” use of his land. The Supreme Court and a majority
of the state courts hold that a landowner is not denied an economically viable use unless the land use regulation does not allow him to make any reasonable use of his land.

Background and cases:

Beginning in 1987, several United States Supreme Court cases ruled against land use regulations as being a \textit{taking} requiring just \textit{compensation} pursuant to the \textit{Fifth Amendment to the Constitution}. \textit{First English Evangelical Lutheran Church v. Los Angeles County} ruled that even a temporary taking may require compensation. \textit{Nollan v. California Coastal Commission} ruled that \textit{construction permit} (short: permit) conditions that fail to substantially advance the agency's authorized purposes require compensation. \textit{Lucas v. South Carolina Coastal Council} ruled that numerous environmental concerns were not sufficient to deny all development without compensation. \textit{Dolan v. City of Tigard} ruled that conditions of a permit must be roughly proportional to the impacts of the proposed new development. \textit{Palazzolo v. Rhode Island} ruled property rights are not diminished by unconstitutional laws that exist without challenge at the time the complaining property owner acquired title.

However, the landowner victories have been mostly limited to the U.S. Supreme Court despite that Court's purported overriding authority. Each decision in favor of the landowner is based on the facts of the particular case, so that regulatory takings rulings in favor of landowners are little more than a landowners' mirage. Even the trend of the U.S. Supreme Court may now have reversed with the 2002 ruling in \textit{Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency}. Justice \textit{Sandra Day O'Connor}, who had previously ruled with a 5-4 majority in favor of the landowner, switched sides to favor the government that had delayed development for more than 20 years because of the government's own indecision about alleged concerns to the water quality of \textit{Lake Tahoe}. 
Zoning

Zoning history and facts

- New York City adopted the first comprehensive zoning code in 1916.
- Zoning is a tool of the police power.
- Zoning requirements are laid out in two documents: the zoning map and the zoning ordinance.

Constitutional challenges

Facial challenges

There have been notable legal challenges to zoning regulations. In 1926 the United States Supreme Court upheld zoning as a right of U.S. states (typically via their cities and counties) to impose on landowners. The case was Village of Euclid, Ohio v. Ambler Realty Co. (often shortened to Euclid v. Ambler), 272 U.S. 365 (1926). The village had zoned an area of land held by Ambler Realty as a residential neighborhood. Ambler argued that it would lose money because if the land could be leased to industrial users it would have netted a great deal more money than as a residential area. Euclid won, and a precedent was set favorable to local enforcement of zoning laws.

In doing so, the Court accepted the arguments of zoning defenders that it met two essential needs. First, zoning extended and improved on nuisance law in that it provided advance notice that certain types of uses were incompatible with other uses in a particular district. The second argument was that zoning was a necessary municipal-planning instrument.

The Euclid case was a facial challenge, meaning that the entire scheme of regulation was argued to be unconstitutional under any set of circumstances. The United States Supreme Court justified the ordinance saying that a community may enact reasonable laws to keep the pig out of the parlor, even if pigs may not be prohibited from the entire community.

Since the Euclid case, there have been no more facial challenges to the general scheme. By the late 1920s most of the nation had developed a set of zoning regulations that met the needs of the locality.

Takings

Generally speaking, Supreme Court cases now require that a regulation must “substantially advance legitimate state interests” to satisfy the taking clause. An important factor in land use taking cases is whether a land use regulation denies a landowner the “economically viable” use of his land. The Supreme Court and a majority
of the state courts hold that a landowner is not denied an economically viable use unless the land use regulation does not allow him to make any reasonable use of his land.

Background and cases:

Beginning in 1987, several United States Supreme Court cases ruled against land use regulations as being a taking requiring just compensation pursuant to the Fifth Amendment to the Constitution. First English Evangelical Lutheran Church v. Los Angeles County ruled that even a temporary taking may require compensation. Nollan v. California Coastal Commission ruled that construction permit (short: permit) conditions that fail to substantially advance the agency's authorized purposes require compensation. Lucas v. South Carolina Coastal Council ruled that numerous environmental concerns were not sufficient to deny all development without compensation. Dolan v. City of Tigard ruled that conditions of a permit must be roughly proportional to the impacts of the proposed new development. Palazzolo v. Rhode Island ruled property rights are not diminished by unconstitutional laws that exist without challenge at the time the complaining property owner acquired title.

However, the landowner victories have been mostly limited to the U.S. Supreme Court despite that Court's purported overriding authority. Each decision in favor of the landowner is based on the facts of the particular case, so that regulatory takings rulings in favor of landowners are little more than a landowners' mirage. Even the trend of the U.S. Supreme Court may now have reversed with the 2002 ruling in Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency. Justice Sandra Day O'Connor, who had previously ruled with a 5-4 majority in favor of the landowner, switched sides to favor the government that had delayed development for more than 20 years because of the government's own indecision about alleged concerns to the water quality of Lake Tahoe.
Zoning

Zoning history and facts

- New York City adopted the first comprehensive zoning code in 1916.
- Zoning is a tool of the police power.
- Zoning requirements are laid out in two documents: the zoning map and the zoning ordinance.

Constitutional challenges

Facial challenges

There have been notable legal challenges to zoning regulations. In 1926 the United States Supreme Court upheld zoning as a right of U.S. states (typically via their cities and counties) to impose on landowners. The case was Village of Euclid, Ohio v. Ambler Realty Co. (often shortened to Euclid v. Ambler), 272 U.S. 365 (1926). The village had zoned an area of land held by Ambler Realty as a residential neighborhood. Ambler argued that it would lose money because if the land could be leased to industrial users it would have netted a great deal more money than as a residential area. Euclid won, and a precedent was set favorable to local enforcement of zoning laws.

In doing so, the Court accepted the arguments of zoning defenders that it met two essential needs. First, zoning extended and improved on nuisance law in that it provided advance notice that certain types of uses were incompatible with other uses in a particular district. The second argument was that zoning was a necessary municipal-planning instrument.

The Euclid case was a facial challenge, meaning that the entire scheme of regulation was argued to be unconstitutional under any set of circumstances. The United States Supreme Court justified the ordinance saying that a community may enact reasonable laws to keep the pig out of the parlor, even if pigs may not be prohibited from the entire community.

Since the Euclid case, there have been no more facial challenges to the general scheme. By the late 1920s most of the nation had developed a set of zoning regulations that met the needs of the locality.

Takings

Generally speaking, Supreme Court cases now require that a regulation must “substantially advance legitimate state interests” to satisfy the taking clause. An important factor in land use taking cases is whether a land use regulation denies a landowner the “economically viable” use of his land. The Supreme Court and a majority
of the state courts hold that a landowner is not denied an economically viable use unless the land use regulation does not allow him to make any reasonable use of his land.

Background and cases:

Beginning in 1987, several United States Supreme Court cases ruled against land use regulations as being a taking requiring just compensation pursuant to the Fifth Amendment to the Constitution. First English Evangelical Lutheran Church v. Los Angeles County ruled that even a temporary taking may require compensation. Nollan v. California Coastal Commission ruled that construction permit (short: permit) conditions that fail to substantially advance the agency's authorized purposes require compensation. Lucas v. South Carolina Coastal Council ruled that numerous environmental concerns were not sufficient to deny all development without compensation. Dolan v. City of Tigard ruled that conditions of a permit must be roughly proportional to the impacts of the proposed new development. Palazzolo v. Rhode Island ruled property rights are not diminished by unconstitutional laws that exist without challenge at the time the complaining property owner acquired title.

However, the landowner victories have been mostly limited to the U.S. Supreme Court despite that Court's purported overriding authority. Each decision in favor of the landowner is based on the facts of the particular case, so that regulatory takings rulings in favor of landowners are little more than a landowners' mirage. Even the trend of the U.S. Supreme Court may now have reversed with the 2002 ruling in Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency. Justice Sandra Day O'Connor, who had previously ruled with a 5-4 majority in favor of the landowner, switched sides to favor the government that had delayed development for more than 20 years because of the government's own indecision about alleged concerns to the water quality of Lake Tahoe.
Zoning

Zoning history and facts

- New York City adopted the first comprehensive zoning code in 1916.
- Zoning is a tool of the police power.
- Zoning requirements are laid out in two documents: the zoning map and the zoning ordinance.

Constitutional challenges

Facial challenges

There have been notable legal challenges to zoning regulations. In 1926 the United States Supreme Court upheld zoning as a right of U.S. states (typically via their cities and counties) to impose on landowners. The case was Village of Euclid, Ohio v. Ambler Realty Co. (often shortened to Euclid v. Ambler), 272 U.S. 365 (1926). The village had zoned an area of land held by Ambler Realty as a residential neighborhood. Ambler argued that it would lose money because if the land could be leased to industrial users it would have netted a great deal more money than as a residential area. Euclid won, and a precedent was set favorable to local enforcement of zoning laws.

In doing so, the Court accepted the arguments of zoning defenders that it met two essential needs. First, zoning extended and improved on nuisance law in that it provided advance notice that certain types of uses were incompatible with other uses in a particular district. The second argument was that zoning was a necessary municipal-planning instrument.

The Euclid case was a facial challenge, meaning that the entire scheme of regulation was argued to be unconstitutional under any set of circumstances. The United States Supreme Court justified the ordinance saying that a community may enact reasonable laws to keep the pig out of the parlor, even if pigs may not be prohibited from the entire community.

Since the Euclid case, there have been no more facial challenges to the general scheme. By the late 1920s most of the nation had developed a set of zoning regulations that met the needs of the locality.

Takings

Generally speaking, Supreme Court cases now require that a regulation must “substantially advance legitimate state interests” to satisfy the taking clause. An important factor in land use taking cases is whether a land use regulation denies a landowner the “economically viable” use of his land. The Supreme Court and a majority
of the state courts hold that a landowner is not denied an economically viable use unless the land use regulation does not allow him to make any reasonable use of his land.

Background and cases:

Beginning in 1987, several United States Supreme Court cases ruled against land use regulations as being a taking requiring just compensation pursuant to the Fifth Amendment to the Constitution. *First English Evangelical Lutheran Church v. Los Angeles County* ruled that even a temporary taking may require compensation. *Nollan v. California Coastal Commission* ruled that construction permit (short: permit) conditions that fail to substantially advance the agency's authorized purposes require compensation. *Lucas v. South Carolina Coastal Council* ruled that numerous environmental concerns were not sufficient to deny all development without compensation. *Dolan v. City of Tigard* ruled that conditions of a permit must be roughly proportional to the impacts of the proposed new development. *Palazzolo v. Rhode Island* ruled property rights are not diminished by unconstitutional laws that exist without challenge at the time the complaining property owner acquired title.

However, the landowner victories have been mostly limited to the U.S. Supreme Court despite that Court's purported overriding authority. Each decision in favor of the landowner is based on the facts of the particular case, so that regulatory takings rulings in favor of landowners are little more than a landowners' mirage. Even the trend of the U.S. Supreme Court may now have reversed with the 2002 ruling in *Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency*. Justice Sandra Day O'Connor, who had previously ruled with a 5-4 majority in favor of the landowner, switched sides to favor the government that had delayed development for more than 20 years because of the government's own indecision about alleged concerns to the water quality of Lake Tahoe.