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A Takings Trifecta: The Supreme Court’s Lingle, San Remo & Kelo Decisions

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In its 2004 term, the United States Supreme Court heard and decided three cases involving its takings jurisprudence. The cases reaffirm the traditional deference the Court has shown to "public use" decisions by local government and limit the ability of an aggrieved property owner to challenge takings, both in substantive and procedural respects.

In his dissent in the 1987 case of *Nollan v. California Coastal Commission*, Justice Stevens described the high Court's taking jurisprudence as being fraught with "great uncertainty." These three cases-decided this year-eliminate some of that uncertainty, but also pose new questions. The holdings are fairly characterized as "pro-government," in the sense that they arguably expand the government's ability to condemn property, and constrict the remedies available to property owners.

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