

SEPTEMBER 1, 2013

Will Koontz Mean Big Changes or Business as Usual for Real Estate Development in California

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On June 25, 2013, the U.S. Supreme Court released its decision in *Koontz v. St. John's River Water Management District*. *Koontz* has been called the most significant takings case since *Kelo v. City of New London* and has been hailed by property rights advocates as a major victory for property owners. Writing for the 5-4 majority, Justice Alito wrote that property owners cannot be compelled to agree to an over-reaching demand by a public agency in order to obtain approval for a project.

All the justices, including the four dissenting justices, agreed that refusing to grant a development permit unless a property owner agreed to an unconstitutional condition was no different from granting the development permit on the condition that the over-reaching government demand was later satisfied. This holding was not terribly controversial. An extortionate demand by a government agency is not different if it is phrased "if you agree to this condition, then the permit is granted" than if it is phrased "the permit is granted, but only if this condition is later satisfied."

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