

LEGAL UPDATES

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## Professionals

KATHARINE D. DAVID  
HOUSTON:  
713.525.6258  
KATE.DAVID@  
HUSCHBLACKWELL.COM

MIKE STAFFORD  
HOUSTON:  
713.525.6259  
MIKE.STAFFORD@  
HUSCHBLACKWELL.COM

BEN STEPHENS  
HOUSTON:  
713.525.6263  
BEN.STEPHENS@

# Property Owners May Now Bring Takings Claims Directly to Federal Court

## Key Point

Property owners may now bring a regulatory takings or inverse condemnation claim in federal court without first exhausting state court remedies, overruling *Williamson County*.

On June 21, 2019, the U.S. Supreme Court ruled that property owners who have had their property taken by state or local governments without compensation may file a Fifth Amendment takings claim in federal court without first having to exhaust remedies in state court. The decision, *Knick v Township of Scott, Pennsylvania*, No. 17-647, overruled *Williamson County Regional Planning Commission v Hamilton Bank of Johnson City*, 473 U.S. 172, an oft-criticized precedent that required takings claims to first be heard in state court.

Under the Fifth and Fourteenth Amendments to the U.S. Constitution, a property owner has a “takings” claim against the government when government action (such as a regulation) goes too far in restricting the owner’s use. *Williamson County* created two procedural prerequisites to bringing a takings claims in federal court: (1) the “final decision” requirement, holding that the government had to have made a final decision on what uses were allowed to the owner under the government regulation; and (2) the owner must have been denied compensation by the government, and sued the government in state court first (the “state litigation” requirement).

The Catch-22 was that, under other Supreme Court precedent, if a landowner lost in state court, the owner’s claim was barred in federal court. It is this Catch-22 that the Supreme Court addressed, and resolved, in *Knick*.

Knick owned 90 acres of rural residential land with a small burial site. She was fined by the Township of Scott, Pennsylvania, for allegedly violating a township ordinance that all cemeteries must be kept open to the public during the day. Knick claimed that the regulation deprived her of the full use of her property without compensation and sued in federal court under the Fifth and Fourteenth Amendments—without previously obtaining a final determination on compensation from a state court. Relying on *Williamson County*, the Third Circuit Court of Appeals found that Knick’s federal claim was barred because Knick had not been finally denied compensation by a state court.

The Supreme Court reversed and overruled *Williamson County*’s state litigation requirement. The court held that because a takings claim under the Fifth and Fourteenth Amendments is a constitutional claim, 42 U.S.C. § 1983 provides a federal cause of action in federal court, without the need to exhaust state remedies: “A property owner has an actionable Fifth Amendment takings claim when the government takes his property without paying for it.”

### **What this means to you**

*Knick* significantly changes the landscape for property owners who wish to sue the government for takings or inverse condemnation claims. Those claims may now be brought in federal court without the owner having previously litigated the issue in state court. Those property owners are also entitled to bring a § 1983 claim for the taking in state court if they choose (although such claims would likely be subject to removal by municipal or state defendants). For developers and property owners who claim that strict development regulations or zoning rules have the effect of “taking” their property, those parties now have access to the federal courts.

From the perspective of a government entity, *Knick* does not create new causes of action or additional liability, but it does expose the government to proceedings in federal court rather than state court. And *Williamson County*’s “final decision” requirement is still good law. Claims brought before the government entity has made a final determination of what uses will still be permissible are not ripe.

### **Contact us**

If you have questions about this update or how it might affect your business, contact Kate David, Jeff Nobles, Heidi Rasmussen, Mike Stafford, Ben Stephens or your Husch Blackwell attorney.