

**Track D**

# PROPERTY RIGHTS

**Eminent Domain, Takings  
& Government Overreach**





**Track D**

**PROPERTY RIGHTS**

# Property Rights Foundations:

Eminent Domains and  
Regulatory Takings

William Mauer & Kevin Roberts | Rooms 404 | 1:30pm – 2:15pm





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# PRESENTERS



**William (Bill)  
Maurer**

**Managing Attorney in Washington Office,  
Institute for Justice**

William R. Maurer is the Managing Attorney of the Washington state office of the Institute for Justice, which engages in litigation in the areas of economic liberty, private property rights, educational choice, & freedom of speech.



**Kevin Roberts**

**Partner, Roberts Freebourn**

Kevin is an experienced trial attorney whose practice consists of complex civil litigation including employment related matters on behalf of employers and employees, eminent domain cases, government liability litigation, commercial litigation, class actions, and real estate litigation.



# OBJECTIVES

## **Property Rights Foundations**

**Eminent Domains and  
Regulatory Takings**

- 1. Gain a foundational grasp of the Fifth Amendment and its application to eminent domain and regulatory takings.**
- 2. Recognize how these doctrines affect property ownership, management decisions, and investment strategies.**
- 3. Equip themselves with insights to better protect property rights, anticipate regulatory impacts, and engage effectively in policy discussions.**



# The Fifth Amendment

The Fifth Amendment (1791) established that private property cannot be taken for public use without just compensation (“Takings Clause”).



# Eminent Domain

## Definition & Examples

Government can take private property for public use, with compensation, even if the owner doesn't want to sell.



- 1 Highway or Bridge
- 2 Public School
- 3 Public Park
- 4 Utility Easement



# Regulatory Takings

## Definition

Government does not seize property but imposes regulations so restrictive they deprive owner of reasonable use or value.

## Examples

### EVICTION MORATORIA

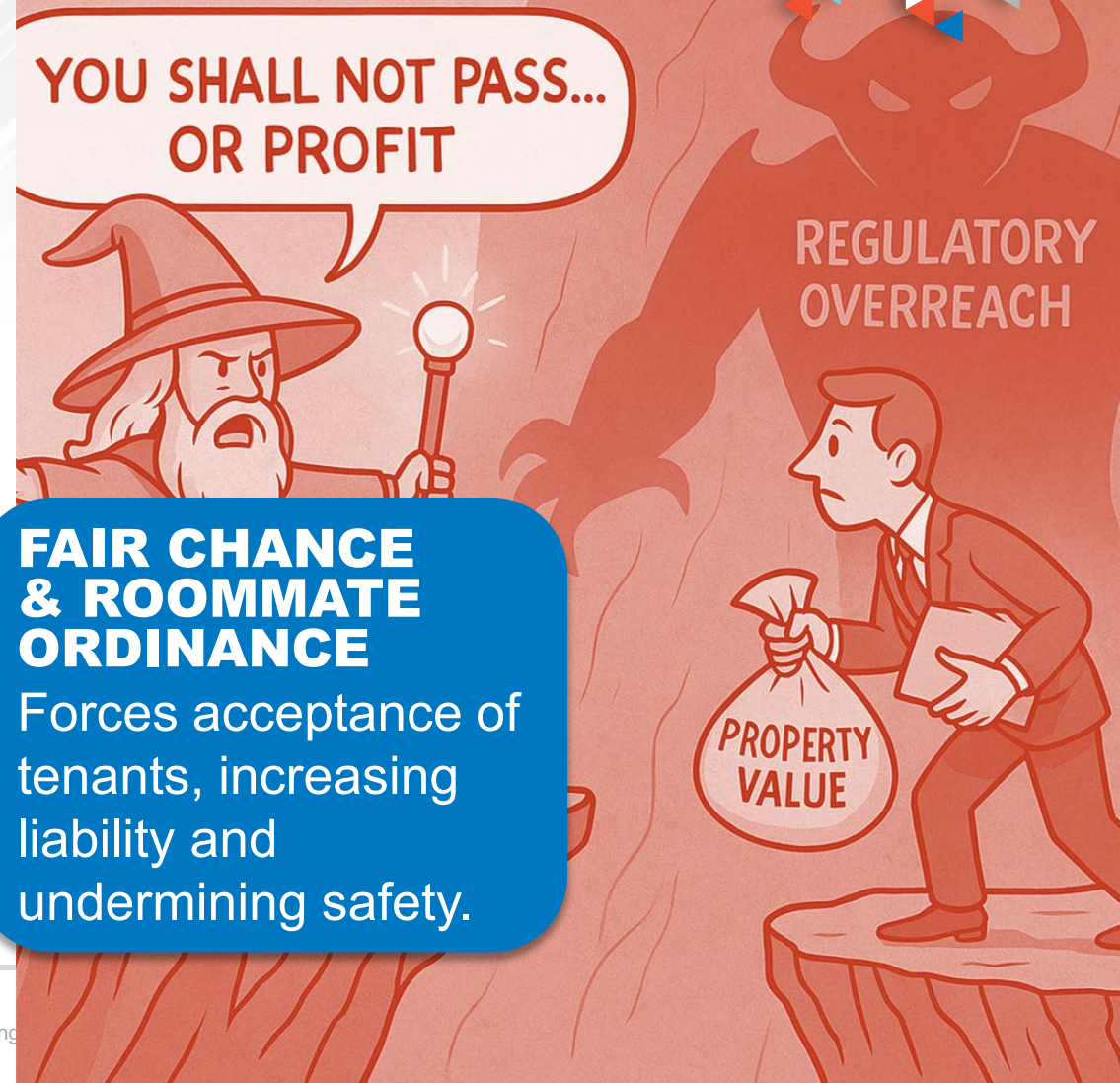
Prevents removal of non-paying tenants, leading to revenue loss and safety concerns.

### RENT CONTROL & NOTICE LAWS

Caps rent increases, causing financial strain and property deterioration.

### FAIR CHANCE & ROOMMATE ORDINANCE

Forces acceptance of tenants, increasing liability and undermining safety.





# Penn Central v. New York City



## CASE SUMMARY

- Penn Central wanted to build an office tower above Grand Central Terminal
- NYC landmark preservation laws blocked the project
- Penn Central claimed a regulatory taking (loss of economic use)
- Supreme Court ruled no taking, creating the “balancing test” – **LANDMARK DECISION**



# Key Test Factors in Takings Cases



## **ECONOMIC IMPACT**

How much value is lost due to the regulation?



## **INVESTMENT EXPECTATIONS**

Did the owner reasonably expect to profit from the investment?

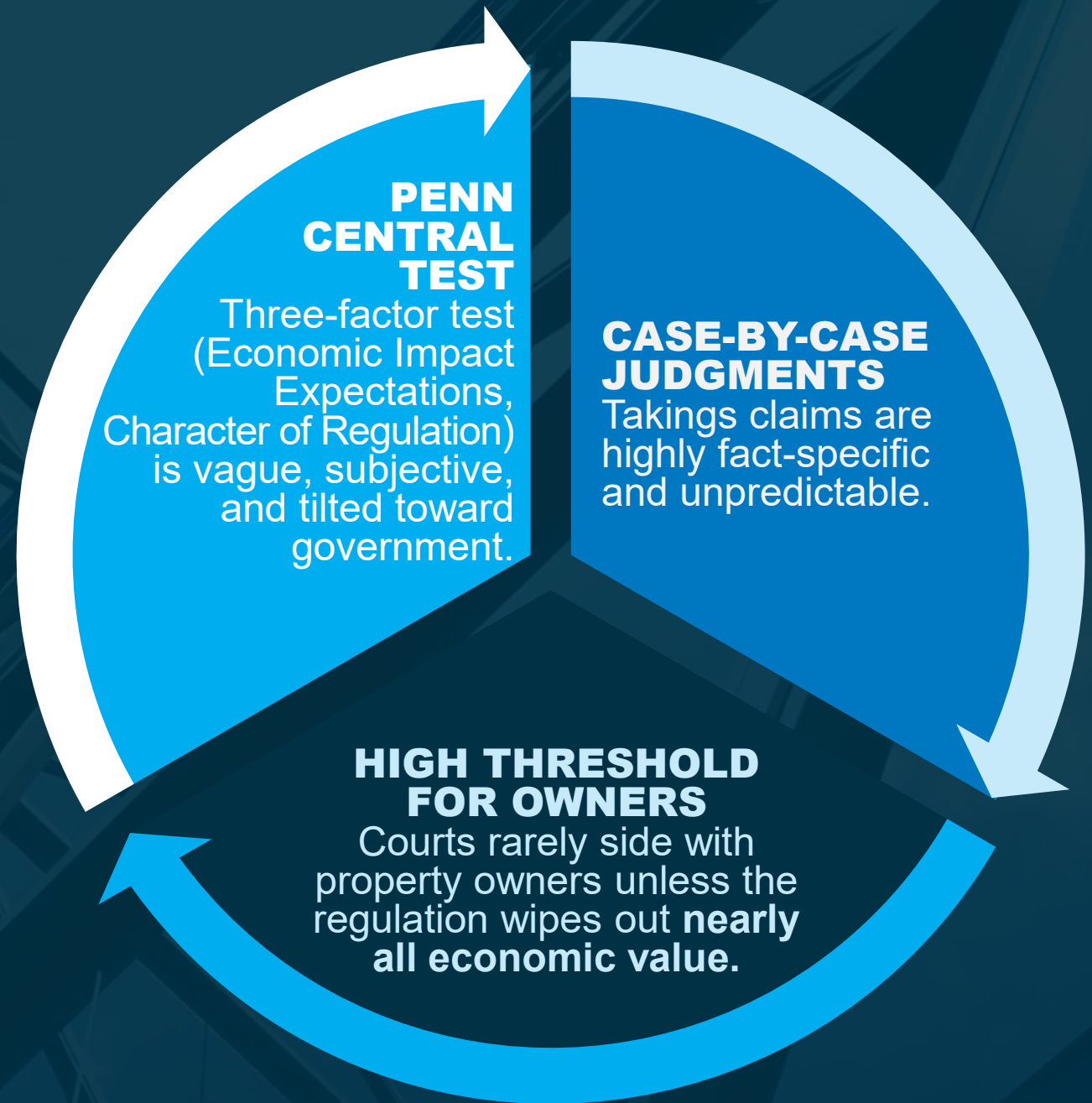


## **REGULATION CHARACTER**

Is the regulation for public good, such as safety or preservation?



# Why is it so Hard to Win?



# Impact on Property Ownership & Investment



## OWNERSHIP

- Core Rights Eroded
- Limited use of property



## MANAGEMENT

- Higher Costs
- Compliance Burden
- Safety Risks



## INVESTMENT

- Depressed Values
- Reduced ROI
- Capital Flight

## THE OUTCOME?

- Fewer Units Built
- Reduced Supply
- Higher Rents & Costly Litigation



## Policy Expertise as a Business Edge

Stay ahead of shifting laws by working with trusted associations like RHAWA to track and adapt quickly.



## Innovation & Partnerships

Retain experienced attorneys to navigate complex regulations and defend property rights.

## COMPETITIVE ADVANTAGES IN HIGH-REGULATION MARKETS

## Strategic Positioning for Capital

Demonstrating stability in high-regulation markets builds credibility with lenders and investors.



## Barriers Create Niches

Knowledge, resources, and persistence turn red tape into opportunity.

# CONTACTS



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