

Track D

PROPERTY RIGHTS

**Eminent Domain, Takings
& Government Overreach**



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PROPERTY RIGHTS

Decoding Takings: WA Housing Edition

Scott Pritchard, Stephen Davis & Christopher Cutting
Rooms 404 | 2:30pm – 3:15pm





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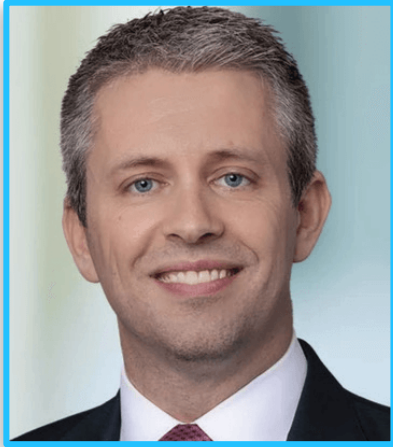
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OBJECTIVES

Decoding Takings

WA Housing Edition

- 1. Learn about RHAWA's pivotal clashes with cities like Burien and Seattle over tenant regulations and eviction moratoriums, to the fight for due process and free speech in tenant screening, we'll reveal the strategies that win – and the pitfalls to avoid.**
- 2. Learn how RHAWA, often collaborating with the Pacific Legal Foundation, defends property owners against overreaching regulations.**
- 3. This session arms you with actionable intelligence and expert guidance to navigate the legal terrain, protect your assets, and thrive in today's market.**

Why Takings Define the Future



Property rights face unprecedented pressure from expanding regulations.

Takings law provides the constitutional framework protecting owners from government overreach without just compensation.

Understanding takings doctrine is essential for navigating Washington's complex regulatory environment and preserving fundamental property interests.

Constitutional Foundation



Fifth Amendment

"Nor shall private property be taken for public use, without just compensation."

Article I, Section 16

Washington State Constitution provides additional protection beyond federal requirements

Both federal & state constitutions create enforceable rights to compensation when government action crosses constitutional boundaries.

What Constitutes a Taking



PHYSICAL TAKINGS

- Direct government seizure
- Permanent physical occupation
- Forced access requirements



REGULATORY TAKINGS

- Eviction restrictions
- Rent control ordinances
- Screening limitations

Yim I – First-in-Time Ordinance

A landmark case challenging tenant protection regulations and their impact on property rights.



ORDINANCE MANDATE

Required landlords to rent to the first qualified applicant, aiming to prevent discrimination in housing.



TRIAL COURT RULING

The initial court found the ordinance unconstitutional, striking it down on all three asserted grounds.



LEGAL CLAIMS

Challenged on multiple constitutional grounds including Takings, Due Process, and Free Speech violations.



WA SUPREME COURT

Reversed the trial court's decision, ultimately upholding the First-in-Time ordinance's constitutionality.

RHAWA v. City of Burien



A landmark case challenging tenant protection regulations and their impact on property rights.



ORDINANCE MANDATE

Burien required deposit installment plans and established Just-Cause Eviction rules.



PREEMPTION CLAIM

RHAWA argues the local ordinance was preempted by state law.



COURT RULING

The WA Court of Appeals upheld the ordinance, affirming local authority.



KEY LESSON

Preemption challenges are difficult; housing providers must track city-specific laws.

From Penn Central to Community Impact

Understanding how legal precedents evolve and the broader implications of regulatory accumulation is critical.



Penn Central Test

- Courts allow challenges one regulation at a time
- Cumulative impact often overlooked



Crushing Burden

- Regulations create overwhelming weight
- Property owners lose rights & flexibility



Community Impact

- Burden spreads beyond landlords
- Threatens community safety & housing supply

The Addison on Fourth



Eviction Moratorium



Roommate Ordinance



Criminal Screening Bans



Relocation Assistance





GRE Downtowner v. City of Seattle (The Addison)

A landmark case challenging tenant protection regulations and their impact on property rights.



ORDINANCE MANDATE

Fair Chance Housing, EDRA, Roommate Ordinance, Eviction Moratorium, Late Fee Cap.



TAKINGS CLAIM

GRE argued these ordinances created a *per se taking*—destroying the building's value, driving vacancies, raising costs, & undermining safety.



COURT RULING

Judge Poydras dismissed the case (Feb 2025), applying **Penn Central Test** & finding insufficient evidence of a regulatory taking.



KEY LESSON

Effective change must be fought at the legislative level & at higher levels of court through litigation.

Key Takeaways



Takings Law is the Backstop Against Government Overreach

Courts often side with regulation under the Penn Central and Yee tests, making it difficult to challenge takings claims.



One-by-One Challenges Aren't Enough

Stacked ordinances create a crushing burden threatening property rights and community safety.



Case Lessons: Yim, Burien, Addison

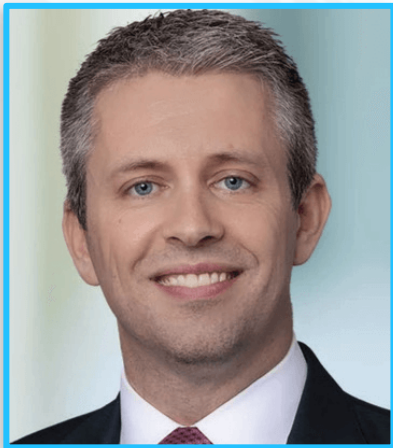
Yim built the record, Burien showed preemption is uphill, Addison proved legislative reform is essential.



The Path Forward: Coordinated Advocacy & Legislative Action

Real change comes through coordinated advocacy and legislative action, plus litigation designed to move to higher courts.

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