

## Key to ruling: denial of 'all use'

To the Editor:

Your editorial entitled "Supreme Court ruling binds town planners" seriously misinterprets this recent ruling of the U.S. Supreme Court.

The second sentence summarizes the opinion as requiring the government to pay property owners "for denying them use of their land, even if the denial is only temporary." Unfortunately, you omitted a crucial adjective. What the court said is that payment must be made if the government denies property owners "all" use of their land, even if the denial is only temporary.

This little three-letter word is the key to understanding the opinion. No less than 21 times in its opinion did the court use the phrase "all use" to make absolutely clear that it was not dealing with the many situations where the land-owner is permitted "some" use of his land.

This error is compounded in your conclusion. You said Justice Rehnquist implied that a society that excessively taxes property owners must allow them "maximum use" of their land, and concluded the editorial by saying that if an owner mows his grass and pays his taxes, he has a right to "full use" of his property.

Not so. This case says simply that the government can't take away "all use" of a person's property, even for a temporary period, without paying for it. Purely as a matter of logic, taking away "all use" leaves the property owner with "no use" of his land. That's what the government can't do — leave the property owner with "no use", as the county of Los Angeles did with the property of the Lutheran Church in the cited case.

The proper interpretation of this case, therefore, and the conclusion you should have drawn in your editorial, is this: As a matter of constitutional law, the government must grant property owners "some use" — not "maximum use" or "full use" — of their property or else pay for the privilege of taking "all use" away.

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