DOWNLOAD PDF LANDOWNERS CANNOT SUE THE GOVERNMENT FOR HARASSING THEM TO MAKE THEM TURN OVER LAND.

Chapter 1 : landWatch: A Handbook For The Community: Land Use Planning And The "Takings Clause"

If land loses all value due to restrictions, the government must pay --The government need not pay for land if its use is temporarily restricted --Cities may condemn homes to make way for commercial development --Landowners cannot sue the government for harassing them over land.

What you need to do before you sue them, Where you should sue them, and If you should sue them. These are hard questions to answer, even in an easy case like a slip-and-fall in a store. For example, if you slip on the floor in a supermarket, you have to figure out if the store is part of a chain or just one store, if falling was partly or totally your fault, etc. In a complicated case, like if the same slip and fall happened on land that the county owns, but that a government agency rents, you have to figure out who was responsible for slippery ground, and follow the laws for suing the government. If you sue a government agency, you have to follow the laws for notice. Claim limits like this protect hospitals and other businesses. If you do not follow these rules, get ready to fight. You could ruin your lawsuit. Even more important are time limits called "statute of limitations. For example, if you are in a car crash, you have 2 years to file a lawsuit. This might not be true for your case. You have to check the time limit yourself. But in general this is the case. The person you sue can challenge you at any time. They can appeal and win. What are Summons and Complaint: A general civil lawsuit starts when the plaintiff files 2 forms. A Complaint is a form that says how the person was hurt, who hurt them and how much the damages are. Where do I file my lawsuit? There are a lot of things to think when you decide where to file your complaint. Jurisdiction can mean more than one thing. This means that the Court has the right to hear and decide a case for the person you are suing. In general, you have to file your lawsuit where the injury happened, or where the contract was supposed to happen, or where the defendant lives. There can be other requirements. Check the California Code of Civil Procedure. Then, the Court also has to have jurisdiction over how much money you want. You have to file your lawsuit in the right court:

Chapter 2 : A tussle over airspace. Could news drones be collateral damage? | RJI

A new proposed law would turn drone journalism into a swarm of lawsuits and make it easy to sue over news photography Imagine if a news photographer at a football game had to get permission from every single person in the stadium before taking a single shot â€" or else face hundreds of civil lawsuits.

You know just the place: The combination of homes in the foreground and a wall of fall color in the background makes a great composition. And, if one semi-official group gets its way, it also exposes you to at least 13 civil suits for trespassing. And more legal exposure capturing video of those 13 houses. In , the U. Supreme Court decided that the airspace above us belonged to the federal government. A court decision affirmed that federal law pre-empted local laws when it came to aviation. The group is scheduled to discuss it at its annual meeting July Rapid change brings fear, such as this story from Atlanta in which a woman claims to have seen a drone peering through her window as she got dressed. Rapid change also creates chaos -- and that often creates an opening to create new regulations. Kitsap County, Washington, wants to bar drones from launching or landing within 3, feet of naval bases there. They would make it a civil offense to fly a drone over private property at less than feet without permission. This is a law with deep reach. It would virtually cripple the emerging roof inspection and aerial videography sectors that use drones. What this means for the media It gets worse. The law makes two presumptions, both of them anathema to news gathering: A drone operator can still be found in violation of the law taking pictures of a private property from a public place. Or on a privately held timber reservation? The Meramec River floods the communities outside of St. Louis and various news outlets obtain, either from their own staffers or freelancers, drone imagery of the breadth of the flooding. But the images capture flooded private property. The proposed legislation enables those private landholders whose land is photographed or caught on video to sue. The local newspaper puts a drone up at feet and gets a stunning photo of the flames leaping out of your improperly stored chemical tanks and the smoke plume blowing over a nearby neighborhood. But the very fact that a picture was taken above ground level opens the door to a lawsuit under the proposed legislation. Propane and septic tanks ripped off their moorings are a regular sight in floods. A media-operated drone gets a shot of the tanks eddying next to a fallen electric line. If the line arcs, the factory goes boom. But this proposed legislation makes the drone operator civilly liable for capturing the images, even if it comes from a public space. The ULC was established in to give states model laws they can enact for the purposes of uniformity. Every state nominates members to the commission and they work in different sub-groups to write these model laws. Superior Court Judge with a background in civil rights and labor cases. It also includes a Pepperdine University law professor named Gregory McNeal, who is the co-founder of the air operations services company AirMap and is a polarizing figure in the drone community , mostly because of his potential conflicts of interest. This is a group with a lot of corporate representation. Anyone with First Amendment or aviation law practice. The law itself The model legislation seeks to regulate a largely unregulated area: Section 49 of the U. A court case, United States v. But Causby left two issues unresolved: A subsequent district court case, American Airlines vs. The proposed law assigns the lower feet of the airspace to state governments for the purpose of creating an aerial trespass offense. That is, you own the air from the blades of your grass to feet, the same way you own the mud in your backyard. New technologies and new problems News directors and photo editors have wrestled with invasion-of-privacy questions for years. News helicopter use has always been protected by the limitations of the National Air Space. Journalists have only had to deal with the issue of aerially transiting private property as an ethical issue and never a legal one. But inexpensive drones and the wherewithal to use them have changed that. But the unintended consequences are worrisome: And real estate agents love aerial images of neighborhoods; that shot is now removed from the repertoire unless the drone operator gets specific, informed permission of every homeowner in the shot. The surveying industry has embraced drones; it will be harmed, too. Any of the above become causes for civil action under the proposed model legislation. The chilling effect on the media may be

the worst of all the possibly unintended consequences. The proposed legislation provides a tool for harassment and deterrence for those who wish not to be photographed or flown over, with a very low bar to enter the court system. Laws like this might move a company like that from cautious approval to never even attempting drone flight. That might be true. But in an increasingly litigious society, with increasingly small profit margins, the threat of suit to a media company could be enough to alter a coverage decision. Several property rights interests and municipalities are pushing for it. Yet others â€" delivery companies, air traffic control companies â€" want to get their drones in very-low altitude airspace.

Chapter 3 : 2) Neighbors Challenging Zoning and Land Use Decisions | ARC Land Matters

If an oil and gas company wanted to drill near a hospital, school, or nursing home but was blocked by zoning laws, the company could sue the government for preventing them from making a profit. If this happened, the go vernment would have to either pay the company or waive the zoning law.

By Judd Slivka July 13, , July 13, , You know just the place: The combination of homes in the foreground and a wall of fall color in the background makes a great composition. And, if one semi-official group gets its way, it also exposes you to at least 13 civil suits for trespassing. And more legal exposure capturing video of those 13 houses. In , the U. Supreme Court decided that the airspace above us belonged to the federal government. A court decision affirmed that federal law pre-empted local laws when it came to aviation. The group is scheduled to discuss it at its annual meeting July Rapid change brings fear, such as this story from Atlanta in which a woman claims to have seen a drone peering through her window as she got dressed. Rapid change also creates chaos â€" and that often creates an opening to create new regulations. Kitsap County, Washington, wants to bar drones from launching or landing within 3, feet of naval bases there. They would make it a civil offense to fly a drone over private property at less than feet without permission. This would be a law with deep reach. It would virtually cripple the emerging roof inspection and aerial videography sectors that use drones. What this means for the media It gets worse. The law makes two presumptions, both of them anathema to news gathering: A drone operator can still be found in violation of the law taking pictures of a private property from a public place. Or on a privately held timber reservation? The Meramec River floods the communities outside of St. Louis and various news outlets obtain, either from their own staffers or freelancers, drone imagery of the breadth of the flooding. But the images capture flooded private property. The proposed legislation enables those private landholders whose land is photographed or caught on video to sue. The local newspaper puts a drone up at feet and gets a stunning photo of the flames leaping out of your improperly stored chemical tanks and the smoke plume blowing over a nearby neighborhood. The photo was taken in airspace that is a demonstrably not private and b more importantly, part of an arguably public byway, the National Airspace. But the very fact that a picture was taken above ground level opens the door to a lawsuit under the proposed legislation. Propane and septic tanks ripped off their moorings are a regular sight in floods. A media-operated drone gets a shot of the tanks eddying next to a fallen electric line. If the line arcs, the factory goes boom. But this proposed legislation makes the drone operator civilly liable for capturing the images, even if it comes from a public space. And if the drone were to move feet west of the main channel and hover over flooded private land, the drone operator has now committed per se aerial trespass as well. The ULC was established in to give states model laws they can enact for the purposes of uniformity. Every state nominates members to the commission and they work in different subgroups to write these model laws. Superior Court Judge with a background in civil rights and labor cases. It also includes a Pepperdine University law professor named Gregory McNeal , who is the cofounder of the air operations services company AirMap and is a polarizing figure in the drone community , mostly because of his potential conflicts of interest. This is a group with a lot of corporate representation. Anyone with First Amendment or aviation law practice. The law itself The model legislation seeks to regulate a largely unregulated area: Section 49 of the U. That court case, United States v. A farmer had sued the government, claiming Army transports flying 83 feet over his chicken coops caused his chickens to up and break their necks against the side of the coop. These two tenets are what give farmers the right to build grain silos and your neighbor the right to put a giant Santa on top of her house. The complex interplay between a federal space and private property rights is what allows medical helicopters to fly feet or jetliners to fly 30, feet over your house and not be violating your privacy. But Causby left two issues unresolved: A subsequent district court case, American Airlines vs. The proposed law assigns the lower feet of the airspace to state governments for the purpose of creating an aerial trespass offense. That is, you own the air from the blades of your grass to feet, the same way you own the mud

in your backyard. This is the example that the ULC uses: This aircraft would be visible to the landowner, perhaps audible to the landowner, and likely troubling to the land owner, but based on existing precedents would not necessarily constitute interference with the use of land, and therefore would likely not be actionable or excludable from that airspace. New technologies and new problems News directors and photo editors have wrestled with invasion-of-privacy questions for years. News helicopter use has always been protected by the limitations of the National Airspace. Journalists have only had to deal with the issue of aerially transiting private property as an ethical issue and never a legal one. But inexpensive drones and the wherewithal to use them have changed that. But the unintended consequences are worrisome: And real estate agents love aerial images of neighborhoods; that shot is now removed from the repertoire unless the drone operator gets specific, informed permission of every homeowner in the shot. The surveying industry has embraced drones; it will be harmed, too. Any of the above become causes for civil action under the proposed model legislation. The chilling effect on the media may be the worst of all the possibly unintended consequences. The proposed legislation provides a tool for harassment and deterrence for those who wish not to be photographed or flown over, with a very low bar to enter the court system. Laws like this might move a company like that from cautious approval to never even attempting drone flight. That might be true. But in an increasingly litigious society, with increasingly small profit margins, the threat of suit to a media company could be enough to alter a coverage decision. Several property rights interests and municipalities are pushing for it. Yet others â€" delivery companies, air traffic control companies â€" want to get their drones in very-low altitude airspace. Judd Slivka is the first director of aerial journalism at the Reynolds Journalism Institute , where a version of this story originally appeared. He is also an assistant professor of convergence journalism at the Missouri School of Journalism. Photo by Andrew Xu used under a Creative Commons license.

Chapter 4 : 3 Ways to Deal With Squatters in Your Neighborhood - wikiHow

While you will still be forced to give up the land, you can at least sue the government and show evidence of why you believe the land's value is more than whatever number the government offered to pay.

Neighbors often have a keen interest in development on adjacent property, but have relatively little input. The courts are especially aware of this issue when it comes to an attack on a rezoning that has been granted by the local government. In such a circumstance, where the property owner has asked for a certain zoning classification, and the local government has agreed and granted the change, the courts are most reluctant to interfere. It is also important to keep in mind that we deal now with the right or power of neighbors to deny to the landowner the right to use the property as the landowner desires and as approved by the governing authority. Thus, despite the feeling of many neighbors that they should have more influence over rezoning changes, the courts are reluctant to intervene. The General Assembly has mandated public hearings under the Zoning Procedures Law, and so neighbors have access into the public hearing process, but once a decision is made, the standard to challenge becomes much tougher. In addition, from a practical point of view, representing neighbors has its own set of difficulties, that will be touched on briefly. First, this paper will discuss the standing issues for neighbors, and then the substantive challenges available to neighbors who are dissatisfied with a zoning decision. Simply being upset with the zoning change does not give a neighbor standing to bring a challenge in most cases. First, the practitioner must determine the precise nature of the zoning act being challenged. If the plaintiff merely wishes to challenge a use that is inconsistent with the existing zoning ordinance, the standing threshold is low- any citizen should be entitled to a declaratory judgment and injunctive relief that a use is not permitted by the existing zoning classification, regardless of whether or not the citizen suffers special damages because of the use. However, a subtle distinction exists when the citizen wishes to challenge an executive or administrative decision such as a building permit that allows a use that is alleged to be inconsistent with an existing zoning ordinance. Instead of entering prospective relief, the court would be called on to remove an existing use. In that case, the court of appeals has held that special damages must be shown in order to challenge an existing use and the building permit allowing for that use. Similarly, when citizens wish to challenge a legislative decision in regards to zoning, such as a rezoning, the courts will also require a showing of special damages. Effingham County, Ga. Typically, two sorts of plaintiffs attempt to bring challenges: It is in fact essential that the individual show damages that are different from the community in general. This can be a frustrating point to make to clients who are neighbors. However, they are necessary in order to qualify the claimant as one entitled to present the controversy to the court for adjudication. Hall County, Ga. The substantial interest-aggrieved citizen test has two steps to show standing. First, a person claiming to be aggrieved must have a substantial interest in the zoning decision, and second, this interest must be in danger of suffering some special damage or injury not common to all property owners similarly situated. Neighbors who merely suffer inconvenience would not qualify, but persons who stand to suffer damage or injury to their property which derogates from their reasonable use and enjoyment of it would meet this test. Damages that are not sufficient to be special damages distinct from those experienced from all property owners in the area would include increased traffic, potential for storm water issues, crime threats, and generalized claims that home values will diminish. These sorts of general claims are typically rejected. Atlanta Merchandise Mart, Inc. The courts call increased traffic a condition incident to urban living. To hold that such an inconvenience would give to any resident or property holder of an urban area the right to override the decisions of boards of zoning appeals any time such property owner or resident disagreed with such decision would be a dangerous precedent to establish. It would result in materially slowing, if not completely stopping, the inevitable and necessary growth of large modern cities. Flooding Neighbors in the Lindsey Creek case, supra, complained of flooding potential from the proposed development, which was a acre site rezoned for commercial use and apartments. The court noted that the

ordinance rezoning the property included conditions that water drainage be handled adequately to reduce or maintain the same flow that is currently shed from the now undeveloped land, which is a provision contained in most all current development regulations. The court concluded that those conditions are enforceable when permits are issued, and do not raise a damage issue. Crime, Noise, Other Nuisance Generalized claims of crime, noise and other nuisances in the neighborhood increasing have been rejected. However, in DeKalb Co. Home Value Diminution Generalized claims that home values in the neighborhood will decline have also repeatedly been rejected as insufficient to give standing. In Lindsey Creek, the court held that, although the neighbors testified that in their opinions the value of their homes would be reduced by the increased traffic and the proximity of the proposed psychiatric hospital, evidence of a general reduction in property values is not the substantial interest required to meet the aggrieved citizen test for standing. Similarly, in Macon-Bibb Co. Specific Home Value Diminution As can be seen, the generalized claims for damages are typically insufficient. The best evidence for standing is a specific showing of a decline in home values supported by expert testimony from adjacent property owners. In DeKalb County v. Thus, the best way to have standing is to have directly adjacent neighbors who can present evidence of potential diminished value from an expert, in addition to other nuisances such as specific noise, odor, light pollution, etc. A Creative Exception A fairly new development in case law regards the standing of neighbors to enforce a zoning ordinance, or to seek a declaration of the effect of a rezoning vote, in contrast to an appeal of a rezoning decision. For the former type case, the declaratory judgment standard applies. In the Head case, the neighbors were not challenging the merits of a rezoning decision but whether the vote of the DeKalb Board actually resulted in the rezoning of the property. The Court interpreted this as a case seeking a declaration of the effect of the vote, rather than an appeal of the rezoning. Standing was confirmed in the subsequent version of the case after remand, Rock v. This case can be used as a creative method for neighbors to obtain standing, and also to escape the normal day appeal time, but the downside is that neighbors relying upon the rule in Head should not be allowed to delve into the merits of the zoning decision. For example, the claim that the rezoning was invalid because it represents a manifest abuse of the zoning power would not fall within the Head exception. Normally the standing of one party is not dependent upon the standing of another party. See Lindsey Creek, supra. Druid Hills Civic Assoc. A party must have a special interest in order to enforce or attack a zoning determination. To rule otherwise would bestow a procedural advantage upon remote parties as opposed to those who are directly affected. This is true because remote parties could proceed directly to court by means of mandamus or injunction while parties with special damage would be required to exhaust administrative remedies. Lost Mountain Homeowners Association, Inc. Neighbors can attempt to launch challenges to the merits of the zoning decision, or they can attempt to find a procedural flaw, or they can attempt to find a fraud or conflict of interest flaw. Of course, like any zoning suit, there are certain procedural prerequisites that should be addressed first, and these will be discussed first below. This thirty-day timeframe comes from O. There are two limited exceptions to this rule. First is the circumstance mentioned above where the challenge is actually cast as a declaratory judgment seeking a determination as to the effect of a zoning action, rather than the appeal of a zoning decision. This is a subtle distinction, however, and it should not be routinely relied upon. The typical challenge to a zoning action is an appeal, and should be filed timely. The second exception is a challenge to the validity of the zoning decision under the Zoning Procedures Law or general notions of due process, which can serve to invalidate a zoning decision even years later. This will be discussed further below. It should be noted that case law indicates that the 30 days run from the time that the zoning decision is reduced to writing. Frequently, that occurs when the minutes of the vote are adopted at the next regular meeting of the governing body. Gwinnett County, Ga. Thus, if you are faced with a situation where the neighbors contact you more than 30 days after the meeting at which property was rezoned, you may still have an opportunity to bring the case, if 30 days have not yet elapsed since the minutes were adopted, and the decision was not otherwise reduced to writing. Proper Venue, Jurisdiction and Parties In most cases, zoning challenges should be brought in the Georgia superior court and not a federal court. The federal courts have stated that zoning cases pertain

to property rights, which arise from state, rather than federal, law. So long as the state provides a remedy for the deprivation of property rights through zoning decisions, there is no federal claim. Georgia does provide such a remedy, through the ability to appeal to the Superior Court, or to seek mandamus or declaratory judgment, whichever is appropriate. See generally Lewis v. Federal courts have said on several cases that they are not interested in becoming courts of zoning review, so it is difficult to imagine the case on behalf of a neighbor that should be brought in federal court. Zoning suits are suits in equity and are heard in superior courts. DeKalb County, Ga. The typical challenge is a challenge to the constitutionality of a zoning ordinance, and hence cannot be tried in state court. Incidentally, where a property owner challenges the denial of a rezoning application, the challenge is always to the constitutionality of the existing zoning, not whether the proposed zoning is constitutional or provides a higher and better use. Zoning cases are brought against the city or county making the zoning decision. Suits against counties should be brought against the county. The governing authority, such as the Board of Commissioners, is an equivalent entity. Entities such as planning commissions or boards of zoning appeals are not proper parties as they do not have the power to zone. The property owner is a necessary party under O. The property owner would have the right to intervene were they not named, and the decision needs to be binding on them as well. Individual city council members or county commissioners are not necessary or proper defendants in their individual capacity. They can be named in their official capacity, but that is generally superfluous. Technically, mandamus requires naming an individual, but many mandamus cases proceed simply against the city or county themselves. If a claim of personal wrongdoing exists, claims can of course be brought against individual government officials. Otherwise, claims against officials in their individual capacity are dangerous and can lead to sanctions or abusive litigation suits. Governing authority officials have legislative immunity in their individual capacity against challenges in zoning suits. City of Cordele, Ga. The proper venue is of course the county where the local government sits, which is also where the land sits, and so this is never an issue. Proper Form of Suit Zoning appeals are frequently either brought as declaratory judgment actions or mandamus cases. Sometimes they are simply styled appeals. Because the appeal of a zoning decision is a de novo review, this aspect of the form matters relatively little, unless the ordinance specifies a particular form for the appeal. The courts have held that local governments have some discretion as to how an administrative appeal proceeds, holding that there can be a direct appeal, if the ordinance so provides, or otherwise it should go by mandamus. Coweta County, Ga. An administrative appeal would be one from a permit or variance denial.

Chapter 5 : What Owners Can Do If HOA Common Areas Are Not Maintained | racedaydvl.com

It is important to distinguish between employees and independent contractors, because employees usually cannot sue their employers for _____, whereas independent contractors can sue the person with whom they made the contract.

If you own private property, you are not automatically entitled do whatever you want to with that property. Property ownership carries responsibilities as well as rights. If you purchase acres of oak trees, you are purchasing only that, acres of oak trees. You have not purchased the right to cut down those trees and plant a vineyard. If you own acres of productive farmland, you have the right to continue to farm, but you have no right to turn all or part of that farmland into a housing development. If you own a vacant lot in a residential neighborhood, you are not automatically entitled to open a gambling parlor or to erect a highrise apartment building on that lot. Private property rights are defined as the right to enjoy your land in a way that does not harm your neighbors and to continue existing uses. If the community deems that vineyards and housing developments and gambling parlors and highrises are desirable uses for the land you own, then the community might grant you permission, and give you a "permit" to develop your land as you would like. But as a property owner, your right is only to ask the community for permission to change the use on land you own. You do not have the right to do whatever you want to with the land. If the community decides not to give you permission to change the use of your land, no taking of your property has occurred. The Supreme Court has found takings in two circumstances: The courts have consistently affirmed that the public has legitimate safety and health concerns that sometimes impinge on the rights of private landowners and the uses they can make of their land. The courts have also said that while property owners have a right to a reasonable use of their land, the U. Constitution does not guarantee that the most profitable use will be allowed. Courts have consistently ruled that even large losses of potential economic benefit do not constitute a taking, as long as the owner retains some economic use of some portion of his or her land. The Fifth Amendment does not confer the right to use property in a manner that may harm the public health or welfare or damage the interests of neighboring landowners or the community as a whole. Courts have ruled, for example, that regulations preventing wetlands destruction, preserving scenic views, protecting historic resources, or protecting endangered species on private land are crucial to public health and well being. Requiring private landowners to help a community preserve wetlands, scenic views, historic resources, or rare species is a legitimate use of government authority. Here is a point of special interest to those who wish to empower public officials to plan for excellent communities: Courts give tremendous leeway to local elected officials to determine what is appropriate public regulation. They leave it to local governments to determine how best to protect the health, safety, integrity, and beauty of a community. So, courts may intervene when official housing policies discriminate against a certain racial group, or when they do not protect the rights of handicapped people to gain access to public spaces. But they are unlikely to intervene when governments regulate to preserve wetlands, farmlands, endangered species, or historic places. If these plans lay out sound principles to achieve broadly supported community goals, they will protect our municipalities from unwanted takings challenges. General Plans provide excellent legal protection against takings lawsuits. Well-prepared General Plans provide the rationale for why the County or a city has decided to put restrictions on certain uses of private land, and the courts will respect and uphold those plans. Further, not only will a local government usually win in court when it bases its land use decisions on a well-prepared General Plan, comprehensive, well founded General Plans also ward off lawsuits in the first place. For example, Monterey County has a much better chance of preserving fertile farmland in key locations if this goal is a specific feature of its General Plan, long before anyone proposes building on the land in question. If citizens clearly and forcefully ask their public officials to plan for a sustainable future, those officials will listen. They want to fulfill their responsibilities to their constituents, and they want to keep their jobs. Communities can view the threat of takings lawsuits as a win-win situation for all members of the community. Clear planning policies that have broad public support can help private landowners, since it

directs them to use their land in ways that are consistent with community objectives. Moreover, such policies are the foundation upon which to build more vital, safe, healthy, and beautiful places, and to create a community in which land retains its economic value. To ward off takings lawsuits, citizens ought to demand the clearest possible planning documents that represent the broadest array of citizen input. Public meetings should be frequent and well attended. Resulting plans and regulations offer the clearest guidelines for private property owners. They justify and explain what kinds of development a community encourages and what kinds it prohibits. Our mission is to promote and inspire sound land use legislation at the city and county level through grassroots community action. Here are some of the things that LandWatch is doing: LandWatch is helping to organize community groups that represent a diverse array of stakeholders. LandWatch is working with these community groups as they communicate to public officials, so that we may plan for and achieve the kinds of communities we all want. LandWatch is advocating that the County and city General Plans be informed by community vision and discussed in frequent, well-attended public forums. LandWatch is helping to ensure that the resulting County and city General Plans represent the best, most sound, and most representative thinking, and therefore form the best defense against frivolous takings claims. Visionary communities need not fear takings lawsuits. In fact, citizens and residents can use the threat of such takings lawsuits to demand General Plan policies that represent maximum public input from all sectors of our county, and that clearly state the overall objectives of the community. Such policies will benefit the community and private property owners alike. We hope, in this brief handbook, to have summed up the basic lesson: Communities should never be afraid to use responsible land use regulations to achieve valid community purposes; in fact, adopting such regulations early on, in a community General Plan, will actually help prevent takings lawsuits. Here are some of the things the courts have said, in their own words: South Carolina Coastal Council, "When an individual or corporate entity purchases personal property to engage in a commercial venture the purchaser is taking a risk that government regulation will diminish the value of that property Indeed, where the item purchased could potentially invoke environmental concerns the purchaser must be especially wary in these days of growing environmental concern. Ralston, "Takings jurisprudence does not divide a single parcel into discrete segments and attempt to determine whether rights in a particular segment have been entirely abrogated. In deciding whether a particular governmental action has effected a taking, this Court focuses both on the character of the action and on the nature of the interference with the rights in the parcel as a whole. DeBenedictis, " our cases have long established that mere diminution in the value of property, however serious, is insufficient to demonstrate a taking those who do business in [a] regulated field cannot object if the legislative scheme is buttressed by subsequent amendments to achieve the legislative end legislation readjusting rights and burdens is not unlawful solely because it upsets otherwise settled expectations. Supreme Court, Concrete Pipe and Products v. Tahoe Regional Planning Agency, [top] LandWatch thanks its members and supporters for the financial assistance that makes our work possible. We are grateful to Dr.

Chapter 6 : Stopping unwanted phone calls and text messages | Consumer Information

1 being a law that allows them the right to sue and drive them out and 2 being a law that allows outsiders from buying up land. The outsiders don't care for the culture or the Hawaiian way.

Zuckerberg is suing to force the families to sell. Now the Facebook CEO is trying to enhance the seclusion of his property by filing several lawsuits aimed at forcing these families to sell their land at a public court auction to the highest bidder. Kuleana lands refers to real estate initially acquired by Hawaii citizens through the Kuleana Act of , which followed the Great Mahele, in which the Hawaiian kingdom began allowing private ownership of land. Often, kuleana lands automatically passed to heirs of the first owner in absence of a will or deed, and then down through subsequent generations of descendents who in some cases now own just fractions of an interest in the property without documentation. For someone to use the law to not only establish title, but to also force a sale requires that they have an ownership claim. For some of the Kauai land, Zuckerberg has done this by purchasing interests from several part-owners. She has no surname, as was tradition in old Hawaii. Some cases filed by Zuckerberg involve properties believed to have no living owners. Perhaps the most complicated case was filed against roughly defendants descended from an immigrant Portuguese sugar cane plantation worker named Manuel Rapozo who is listed in the complaint as having bought four parcels totaling about 2 acres in Also, documenting who in his family tree owns what share in the property is too expensive for him, and letting shares become further diluted among future generations makes the problem worse. Andrade recently sent a letter to many of his known relatives explaining the situation. Another Rapozo descendent, Cameron Pila of Palolo, said he knew of the land but lost a connection to Kauai when his grandmother Margaret Jordan Cameron left Hawaii before she died in For some pulled into the quiet title action, proceeds from a sale might seem like a windfall. Defendants have 20 days to respond to the legal complaint after being served with a copy. If they choose to participate, it could be expensive if they want to be represented by an attorney. Valuing all the shares is hard to estimate. Some idea can be gleaned from property tax values and shares Zuckerberg bought in November and December. However, actual real estate values can be far higher than tax assessors gauge. For the eight quiet title cases on Kauai, if a judge allows an auction, anyone with the money to back up their bid can participate. A judge also could grant a Zuckerberg request to recoup his attorney fees and other costs including research tracing family trees. In the past, quiet title auctions have been known to result in below-market sale prices even though judges can reject a high bid that they deem grossly inadequate.

Chapter 7 : When Should You Sue? | racedaydvl.com

Clear planning policies that have broad public support can help private landowners, since it directs them to use their land in ways that are consistent with community objectives. Moreover, such policies are the foundation upon which to build more vital, safe, healthy, and beautiful places, and to create a community in which land retains its.

Reddit Flipboard Just about everyone knows that under a process called eminent domain, the government can and does seize private property for public use - to build a road, a school or a courthouse. Correspondent Mike Wallace reports on this story, which first aired last fall. They live in a quiet neighborhood of single-family houses in Lakewood, Ohio, just outside Cleveland. The City of Lakewood is trying to use eminent domain to force the Saleets out to make way for more expensive condominiums. But the Saleets are telling the town, "Hell no! This is our home. And I worked hard. Now, he and his wife plan to spend the rest of their days there, and pass their house on to their children. Lakewood cannot survive without a strengthened tax base. Is it right to consider this a public good? With great views, over the Rocky River, those condos will be a cinch to sell. And to legally invoke eminent domain, the city had to certify that this scenic park area is, really, "blighted. This is an area that we absolutely love. This is a close-knit, beautiful neighborhood. A statutory term is used to describe an area. The question is whether or not that area can be used for a higher and better use. Who has all those things? My home is not for sale. But this is rampant all over the country. They claim that taking private property this way is unconstitutional. But nobody thinks that property can be taken to give it to their neighbor or the large business down the street for their economic benefit," adds Berliner. The City of Mesa, citing the need for "redevelopment," is trying to force Bailey to relocate to make way for an Ace Hardware Store that would look better and pay more taxes. Business has been awesome, Bailey says. In fact, the city has "made dirt" out of three restaurants and four businesses that once stood on a five-acre lot. Lenhart wants a much bigger store. Bailey is gonna get hurt. This place was built in as a brake and front-end shop," says Bailey. Lenhart admits that he never tried to negotiate with Bailey: Now, we are going to sit in Mesa, Arizona and have our town center decay? The new headquarters of The New York Times. Wallace told 60 Minutes that the newspaper never tried to negotiate with him. Instead, The Times teamed up with a major real estate developer, and together they convinced New York State to use eminent domain to force Wallace out. By declaring the block blighted. Most of their neighbors have agreed to sell if the project goes ahead. But the Saleets, plus a dozen others, are hanging tough. But I guess I just leased it, until the city wants it," says Jim Saleet. This is my dream home. But in New York City, tenants and owners have been forced off their land so The New York Times can begin building its new headquarters.

DOWNLOAD PDF LANDOWNERS CANNOT SUE THE GOVERNMENT FOR HARASSING THEM TO MAKE THEM TURN OVER LAND.

Chapter 8 : Facebookâ€™s Zuckerberg sues to force land sales

Just about everyone knows that under a process called eminent domain, the government can (and does) seize private property for public use - to build a road, a school or a courthouse.

Poorly Lit Staircase Iced Entranceway to premises No matter the type of property or injury involved, property owners are liable for all injuries incurred due to hazards associated with their property, whether a home or business. The Question of Liability The main issue in a premises liability case is the question of liability. While there may be no denying you are injured, the question is, is someone liable for your injury? However, this is not often the case. According to the law, we hold some responsibilities to one another. If we should fail to live up to that, we breach that responsibility and our breach can lead to someone getting injured, then liability for that injury becomes an issue. Premises Liability Cases Inadequate Outdoor Lighting - can lead to a pedestrian being injured in a parking lot or on a sidewalk. The property owner can be held liable if they knew or should have known about the dangerous situation but failed to correct the problem in a reasonable time frame. Flooring Problems â€" can often result in slip-and-fall accidents. Store Owner Liability - people visit stores to primarily benefit the store owner i. They must inspect their property for potential dangers and act quickly to fix the problem or adequately warn visitors of the dangers, should they fail to do so, they can be held liable for any injuries that may occur. The injured person files a report with McDonalds and the case, if any, would be directed towards them. Even though premises liability cases are extremely situational, there are some general guidelines that help explain the legal process: The Question of Liability The core issue at hand is the question of liability. There may be no denying you are injured, but is someone liable for your injury? In fact, only 1 out of 10 cases have good liability. To better explain we offer an example of an injury that would NOT make a good premises liability case: The person slipped and fell. If it has been snowing for two days straight and there was no way the business could have the area in question cleaned, then its not good liability. However, if it snowed for two days ago and the business just left it there while making no effort to make the place safe, then yes, the company may hold some liability. The most important issue is that the business is making a reasonable effort to keep the premises safe. When dealing with a commercial property, the level of duties increases. Reasonable Conduct According to the law, we hold some responsibilities to one another. Business owners have a duty to make sure people are reasonably safe while on the property. If the business fails to make the property reasonably safe and someone is injured then the business owner can be held liable. Liability Investigation The following items will help determine what happened and who is liable. If the case is large enough and serious enough, your attorney may choose to hire an investigator to do the research above with them. Witnesses â€" A lawyer will want to know if there were any witnesses to the incident and if so what do they remember? Incident Report â€" If the accident occurs on a commercial property, especially a retail store, then there will most likely be an incident report that outlines the accident in detail. Your lawyer will want to read what the company documented from their perspective. Weather Records â€" If the accident was weather-related, then your lawyer will want to search weather records from the government, which are highly accurate sources. Police Report â€" If the accident was serious enough to involve an ambulance and immediate medical attention your lawyer will also want a copy of those records. Medical Endpoint When a person reaches a medical endpoint, it means they have done one of two things â€" they have healed or they are as healed as they are going to be. The lawyer will then work to establish your medical status â€" are you fully recovered or have you sustained permanent injury from the accident. The package will include:

Chapter 9 : Facing Debt Collection? Know Your Rights | Consumer Information

They wonder if someone is harassing them, or if a burglar is checking to see if they are not home. In most cases, these calls are from telemarketers. Prior express written consent is required for all autodialed or prerecorded calls or text

(SMS) messages made to cell phones or residential landlines for marketing purposes.