

Association County Commissioners of Georgia 2006 Policy Position

Inverse Condemnation – ACCG believes current law adequately protects citizens whose property is negatively affected by state and local government regulatory decisions. The U.S. Supreme Court and state law have established standards for government takings that spell out when local governments must compensate property owners. In addition to traditional condemnation actions, governments must compensate property owners if the government entity physically intrudes on or interferes with the use of private property. An example might be where a county sewer system failure causes a business to shut down for a period of time. Property owners may also seek compensation if a regulation or decision of a government deprives a property owner of all economic use of his or her property. However, rather than limiting takings to circumstances when a government physically takes or seriously impacts the use of property, some legislators and special interest groups would like to expand the concept of condemnation to include effects of routine regulatory decisions, such as zoning, tree ordinances, historic preservation ordinances, erosion and sedimentation control ordinances, and stream buffers on the potential value of property. The intent of the proponents advocating expanding inverse condemnation is to limit local government enforcement of land use controls through intimidation via litigation or threats of litigation and/or making the administration of land use regulations so expensive (in the form of higher taxes to pay the costs of litigation and claims), that land use controls will be abandoned. ACCG is strongly opposed to any efforts to broaden the concept of inverse condemnation to include routine regulatory takings. Since the proposals being discussed could limit commissioners' discretion in land use matters and because it could lead to the most significant unfunded state mandates to date, ACCG urges the General Assembly to reject any such proposals.