Environmental Law’s Land Use Management

Discussion Questions for
January 26, 2005

1. With the growth of urban sprawl and expansion of residential areas into formerly “rural” areas, what are the potential defenses for rural landowners who are subjected to new regulations or “takings” from urbanites moving outward, who may have a different view and goal for the surrounding land and environment?

2. I would like to discuss the different appraisal methods used to value property under the proposed legislation discussed in the reading.

3. Is there a neutral definition of ‘taking”? Does it depend on if you’re a member of the ‘property rights movement’ or an environmentalist? Does it depend on your political party?

4. How far is too far with eminent domain—re WSJ article.

5. Would people have different feelings about eminent domain if it was regulated by a private agency and not the government?

6. In environmental and land use regulation, the legislative branch is largely responsible for causing the takings issue to arises, i.e. in *Palazzolo* and *Lucas*, the legislative branch prohibited construction in sensitive environmental areas. The legislative branch does this with full knowledge that it will be taking away the development rights of some private property owners, yet it makes no concession for this. Instead, it punts to the courts which are forced to come up with doctrines like “complete loss of economic value” or “investment backed expectations.” Would we not be better off if the legislature built into environmental regulations certain provisions for dealing with the takings question?