

EQUAL JUSTICE UNDER LAW



■ LEGAL PRECEDENT | FEDERAL COURT

# Dolan v. City of Tigard

*Housing Affordability Institute's Legal Precedents outlines influential, precedent-setting court decisions at the state and federal level and illustrates their impact on housing and development and their impact on housing and development.*

## CASE OVERVIEW

*Dolan v. City of Tigard*, 512 U.S. 374 (1994) is a landmark Supreme Court case establishing the limits of conditional approval in zoning and takings claims. Dolan sought approval from the City of Tigard, Oregon, to expand the business's building and pave the parking lot. The City of Dolan's planning commission conditioned the approval on donating land to the city for use of a public greenway, to which Dolan objected. Dolan eventually made its way to the Supreme Court of the United States.

In 1994 the United States Supreme Court ruled 5-4 that the City of Tigard's actions constituted an uncompensated taking of property.

## PRECEDENT

The standard of "rough proportionality" stems from the landmark Dolan decision. The 5th Amendment states, "nor shall private property be taken for public use, without just compensation." Dolan's only form of compensation from the city was project approval.

In the majority opinion, Chief Justice Rehnquist wrote:

*"Under the well settled doctrine of 'unconstitutional conditions,' the government may not require a person to give up a constitutional right in exchange for a discretionary benefit conferred by the government where the property sought has little or no relationship to the benefit. In evaluating Dolan's claim, it must be determined whether an 'essential nexus' exists between a legitimate state interest and the permit condition... In deciding the second question-whether the city's findings are*

*constitutionally sufficient to justify the conditions imposed on Dolan's permit-the necessary connection required by the Fifth Amendment is 'rough proportionality.' No precise mathematical calculation is required, but the city must make some sort of individualized determination that the required dedication is related both in nature and extent to the proposed development's impact. This is essentially the "reasonable relationship" test adopted by the majority of the state courts."*

## IMPACT ON HOUSING

Dolan is most known for being half of the "Nollan-Dolan" standard, named for a similar takings case before the Court in 1987. Dolan is frequently cited in takings claims cases. Dolan's establishment that land use conditions must bear "roughly proportionality" to the subject development has had far reaching implication on land use decisions for nearly 30 years.

## FURTHER READING

*Nollan v. California Coastal Commission*, 483 U.S. 825 (1987)