

EQUAL JUSTICE UNDER LAW



■ LEGAL PRECEDENT | FEDERAL COURT

# Nollan v. California Coastal Commission

*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

*Nollan v. California Coastal Commission*, 483 U.S. 825 (1987), was a United States Supreme Court decision outlining the limits of taking claims related to land use approvals. The Nollans were property owners of a beachfront lot seeking approval to tear down a bungalow and replace the structure with a home. The California Coastal Commission conditioned the project's approval on the Nollans' granting a public easement to access the beach, with the easement recorded on the property's title. The Nollans argued in court that the easement condition violated the Fifth Amendment.

In 1987, the United States Supreme Court ruled 5-4 for Nollan.

## PRECEDENT

Nollan is considered a landmark decision as it established the legal precedent of "rational nexus" requirement in takings claims asserting an unconstitutional development condition. In the Court's majority opinion, Justice Scalia wrote:

*"Similarly here, the lack of nexus between the condition and the original purpose of the building restriction converts that purpose to something other than what it was. The purpose then becomes, quite simply, the obtaining of an easement to serve some valid governmental purpose, but without payment of compensation. Whatever may be the outer limits of 'legitimate state interests' in the takings and land-use context, this is not one of them. In short, unless the permit condition serves the same governmental purpose as the development ban, the building restriction is not a valid regulation of land use but "an out-and-out plan of extortion."*

## IMPACT ON HOUSING

Nollan is most known for being half of the "Nollan-Dolan" standard, named for a similar takings case before the Court in 1994. As the first half of this standard, Nollan requires government to have an "essential nexus" between the condition of development and the legitimate governmental objective.

Nollan's direct connection to land use leads to frequent citations in court filings, particularly when involving land use permits conditioned on exactions dictated by the permitting entity.

## FURTHER READING

*Dolan v. City of Tigard*, 512 U.S. 374 (1994)