

and therefore I'm questioning our need to retrack or to try to build something into the law that somehow protects property owners more. So I ask you again, are you aware of any rule or regulation that has been approved by an Attorney General in this state, in particular the current one, which has turned out afterwards, from court decisions, to have found to have been in violation of the just compensation provisions of the federal or State Constitution?

SENATOR BROMM: No...is that a question, Senator Beutler?

SENATOR BEUTLER: It is a question.

SENATOR BROMM: No, I am not. And I would expand on that a little bit, but it's your time.

SENATOR BEUTLER: Please, no, no, please, I...

SENATOR BROMM: My additional response would be that we know that this has happened in other states, there have been a couple of Supreme Court cases and so forth. I think it's an effort to exercise some preventative law, if you will, in Nebraska rather than wait until we are brought into court in such a situation. I also think that it is possible for a proposed regulation to represent a takings and not be unconstitutional. And I was thinking about that after your first question. And in the area of police powers, public health and safety, I think a regulation could represent a takings and not be unconstitutional. I don't think you're entitled to be compensated if you're going to create a nuisance or have created a nuisance or something dangerous to the public, you're not entitled to be compensated for stopping that. Okay? So, in that sense I don't think it would be unconstitutional to have a regulation like that. But I think it would be well and wise for the director of DEQ to realize the impact of something and perhaps weigh that with the need for protecting the public and decide if it's still worth pursuing and going ahead with. At least he would realize the impacts on both sides. I don't know if you follow that, and I may have to explain that a little bit more later. But do you follow me on that?

SENATOR BEUTLER: I don't think that I do follow you, and let me...

PRESIDENT ROBAK: One minute.