

through evolving principles related to just compensation. And then in 1978, in the Pennsylvania Central decision, Pennsylvania Central Transportation Company versus New York City, they basically summarized what they believed the law to be and the correct principles to be with regard to just compensation for the purposes of giving guidance to the appeals courts and the district courts. And there were four or five different items that they reflected upon. One, they indicated that communities clearly have the authority to adopt rules and regulations that are designed to protect and enhance the quality of life of its citizens. That is an ancient principle in this area and they reaffirmed that. They said that the regulation of private property will not constitute a taking so long as the regulation advances a legitimate governmental interest; and, two, the property owner retains some viable use of the property, and suggested that a legitimate measurement of that viable use is the owner's reasonably...reasonable expectations with regard to the investment value of the property. And that latter factor was one of the...is one of the factors that constitutes a greater liberality in terms of protection of property owners and opened up a new area for further discussion as to what is a viable use and what are reasonable expectations on the part of the property owner. The court went on to say that property owners, however, could not establish a taking simply by showing that they were denied the ability to exploit a property interest that they had heretofore believed was available for development. In other words, they might have had a particular design in mind when they purchased the property and that design may have been eliminated by virtue of some sort of state regulation, but if nonetheless notwithstanding that elimination there was another use of the property which was viable and substantial, a property owner could not use that expectation as a justification for recovery. And, finally, the court had indicated that in deciding whether a particular governmental action has caused a taking, the reviewing court has to examine the effect of the regulation on the entire property and not...and could not focus on any one segment or portion or part of the party, that is they make clear that in determining whether there was a viable use,...

PRESIDENT ROBAK: One minute.

SENATOR BEUTLER: ...whether the value of the property was taken and you could not segment and look at one part versus another but had to look at the whole thing. So that was the court