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## U.S. Supreme Court Hands Two Big Wins to Municipal Governments in 2001-2002 Term

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# *Zoning and Land Use Planning*

PATRICIA E. SALKIN\*

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## **U.S. Supreme Court Hands Two Big Wins to Municipal Governments in 2001-2002 Term**

### **I. Introduction**

The losing streak before the U.S. Supreme Court that has followed municipal regulators of planning and land use over the last several years has taken a turn with the 2002 U.S. Supreme Court Term. The Court handed down two significant decisions weeks apart. One decision confirms that a moratorium on building permits is not a temporary regulatory taking that would trigger a right to compensation for landowners,

and the other decision upholds the long-held municipal belief that local governments may use secondary effects studies as a valid justification for the adoption of regulations regarding adult businesses. Each of these cases is discussed in this column.

### **II. Local Moratoria Upheld As Valid Planning Technique**

#### **A. The Decision and Reactions Thereto**

On April 23, 2002, the U.S. Supreme Court handed local governments a major victory in continuing efforts to plan for smart growth, in *Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency*.<sup>1</sup> Recognizing that locally enacted moratoria, or temporary delays in the issuance of building permits pending further study, are an essential tool of successful development, the High Court said, "To the extent that com-

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<sup>1</sup>*Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency*, 122 S. Ct. 1465 (U.S. 2002). See also Dwight Merriam, "Tahoe-Sierra: A Takings Time Warp?," *Zoning and Planning Law Report*, vol. 25, no. 6 (West Group, June 2002).

munities are forced to abandon using moratoria, landowners will have incentives to develop their property quickly before a comprehensive plan can be enacted, thereby fostering inefficient and ill-conceived growth.’’<sup>2</sup> The Court went on to warn, however, that although a moratorium in effect for more than one year was held not to be an unconstitutional taking based on the facts in the case before it, whether a general rule limiting the allowable duration of a moratoria is a good idea is a decision best left to the state legislatures.<sup>3</sup>

Perhaps the parties might have predicted the conclusions of the Court after reading only the first few paragraphs of the decision, where the Court noted that all agree that the Lake is “uniquely beautiful” and that President Clinton was right to call it a “national treasure,” that the Lake had “exceptional clarity,” and that unfortunately, increased land development has threatened the “noble sheet of blue water.”<sup>4</sup> The background facts in the case

are important and procedurally complex, due to the interjurisdictional dynamics of the Lake Tahoe Regional Planning Agency and the voluminous amount of litigation over the protection and preservation of the Lake (by both the government and the landowners for almost twenty years). The area of Lake Tahoe is approximately 501 square miles, and it is geographically spread over two states (California and Nevada), five counties, and several municipalities. In addition, the U.S. Forest Service has jurisdiction over some of the land. The Agency was created in 1968 by a congressionally approved statutory compact between the two states enacted to protect and preserve the lake.<sup>5</sup> A comprehensive land use ordinance was adopted by the Agency in 1972 which was deemed by California to be less than desirable, and in 1980 a new compact law was passed by both states and approved by Congress mandating, among other things, the development of a comprehensive regional

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<sup>2</sup>Id., 122 S. Ct. at 1488.

<sup>3</sup>Id., 122 S. Ct. at 1489.

<sup>4</sup>Id., 122 S. Ct. at 1471.

<sup>5</sup>See 1968 Cal. Stat., Ch. 998, p. 1900 § 1; 1968 Nev. Stats. 4; and Pub. L. 91-148, 83 Stat. 360.

plan for the Lake.<sup>6</sup> In 1981 and again in 1983, moratoria were enacted to prohibit development pending planning work in the Lake Tahoe area.<sup>7</sup> In effect, these two moratoria combined to prevent development for a total of 32 months.<sup>8</sup> It is these two moratoria that were the subject of the current proceedings.

This case does not present an across-the-board victory, nor does it bless every moratorium under every set of circumstances. The Court clearly states that although there was no *per se* regulatory taking of the petitioners' land in the present case, "we do not hold that the temporary nature of a land-use restriction precludes a finding that it effects a taking; we simply recognize that it should not be given exclusive significance one way or the other."<sup>9</sup> The Court opts to follow Justice O'Connor's approach in last year's case of *Palazzolo v Rhode Island*,<sup>10</sup> where in her concurring opinion she suggests that the deter-

mination of whether a government regulation constitutes a temporary taking "requires careful examination and weighing of all the relevant circumstances." This type of inquiry can only occur when there is a case-by-case factual inquiry rather than a strict statutorily crafted time frame.

The case attracted substantial interest in the form of amicus curiae briefs. Seven briefs were submitted on behalf of the landowners by various interest groups, including the American Farm Bureau (and some of their chapters), the National Association of Home Builders, the Defenders of Property Rights, The Institute for Justice, the Washington Legal Foundation, the Pacific Legal Foundation (and the California Association of Realtors), and a litany of Small Property Owners who signed onto to one brief. Lining up to support the interests of government regulation were six briefs submitted by the American Planning Association (and the National

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<sup>6</sup>See Cal. Gov't Code Ann. § 66801; Nev. Rev. State. § 277.200; and 1980 Pub. L. 96-551.

<sup>7</sup>Id.

<sup>8</sup>Id.

<sup>9</sup>Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency, 122 S. Ct. 1465, 1486 (U.S. 2002).

<sup>10</sup>Palazzolo v. Rhode Island, 533 U.S. 606, 636, 121 S. Ct. 2448, 150 L. Ed. 2d 592 (2001).

Trust for Historic Preservation); several large national state and municipal associations (the Council of State Governments, the National League of Cities, the National Conference of State Legislatures, the National Association of Counties, the National Governors Association, the International City-County Management Association, the International Municipal Lawyers Association, and the U.S. Conference of Mayors); the U.S. Department of Justice; the National Audubon Society (and the Natural Resources Defense Council, the National Wildlife Federation, and the Sierra Club); a group of scientists who joined together for a brief; and 22 states and the Commonwealth of Puerto Rico.

What is clear from the rhetoric on land use list servers is that the planning communities are claiming victory in the U.S. Supreme Court, and those often associated with pro-“property rights” sympathies are concerned about “moratoria madness.” What follows are some sound-bites from the

flurry of news releases following the decision. The American Planning Association (APA) issued a press release claiming a solid win for planning. According to Paul Farmer, the Executive Director of the APA, “The Supreme Court has strongly stated the concept that rights and responsibilities are reciprocal between property owners and local government during the development process.”<sup>11</sup> Furthermore, he added, “The Court has reaffirmed that planning and planning tools are central to maintaining an open and democratic development process that safeguards the rights of all citizens.”<sup>12</sup> The National Association of Counties (NACo) reported that “local planners and zoning officials can rest easier in light of [the] Supreme Court ruling.”<sup>13</sup> The author of NACo’s brief, Richard Ruda of the State and Local Legal Center, explained, “The Court’s ruling—by a comfortable margin—that temporary development moratoria are not per se takings, but are instead an essential tool for successful de-

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<sup>11</sup>American Planning Association, “U.S. Supreme Court Decision: A Solid Win for Planning,” April 23, 2002 (see [www.planning.org](http://www.planning.org)).

<sup>12</sup>*Id.*

<sup>13</sup>Beverly Schlotterbeck, “High court OKs temporary development moratoria,” County News, available at [www.naco.org/pubs/cnews/01-05-06/articles/2high.html](http://www.naco.org/pubs/cnews/01-05-06/articles/2high.html).

velopment is a landmark precedent for land use regulators such as counties.”<sup>14</sup> He added, “The decision supports an important distinction between regulatory takings, where property remains in the owner’s possession but is restricted in use because of government regulations, and the government’s physically taking over private property. It maintains that the two types of takings need to be treated differently.”<sup>15</sup>

The National Association of Home Builders (NAHB) warned of “moratoria mania” in expressing disappointment over the ruling.<sup>16</sup> NAHB went on to assert, “What the Supreme Court failed to note about moratoria is that they are also admissions of planning failure—a failure to plan for and provide adequate housing that is affordable to all seg-

ments of society.”<sup>17</sup> The Pacific Legal Foundation noted their disappointment with what it termed a “minor setback” and said that it considers this decision to be “an unfortunate blip in the forward progress of property rights.”<sup>18</sup> The Washington Legal Foundation stated, “Thus the Court’s approach—whereby a land use regulation labeled ‘temporary’ cannot give rise to categorical takings analysis—is a recipe for emasculating the Takings Clause.”<sup>19</sup>

### **B. Next Steps: Moratoria Laws May Be Coming to a State Legislature Near You**

Absent a statute addressing moratoria in the states, the courts have long upheld the validity of locally enacted moratoria as “a sensible and practical way to insure that decisions on land usage . . . can be

<sup>14</sup>Id.

<sup>15</sup>Id.

<sup>16</sup>National Association of Home Builders, “Supreme Court’s Lake Tahoe Decision Could Trigger Moratorium Mania,” April 24, 2002 (see [www.nahb.com](http://www.nahb.com)).

<sup>17</sup>Id.

<sup>18</sup>Pacific Legal Foundation, Action Report, “Lake Tahoe Property Owners Lose Land Rights Fight,” March 29, 2002 (available at <http://pacificlegal.org/actionreport/2002/ar-46-o2c.htm>).

<sup>19</sup>Washington Legal Foundation, Litigation Update, “Court Declines to Require Payment for Temporary Taking of Property,” April 25, 2002 (available at <http://www.wlf.org>).

effective[.]”<sup>20</sup> Generally, so long as municipalities follow proper procedures for the enactment of moratoria, and so long as a moratorium remains in effect for a “reasonable” period of time and the municipality can demonstrate that a planning process is ongoing, the courts will uphold these local laws, also referred to as “stop gap” or “interim zoning.” Just as some moratoria have been upheld by the courts, many have been struck down as overly burdensome in duration or invalid where there was no “good faith” planning effort taking place while the moratoria remained in effect.

To date, eight states regulate the use of local moratoria by statute. These laws vary in their approach to specific time limits for moratoria, ranging from a short span of 45 days to more than three years.

In Arizona, a moratorium on construction or land development may be adopted only after the locality publishes public notice of a hearing to consider the adoption of the moratorium,

and where there are written findings that justify the need for the moratorium.<sup>21</sup> The statute sets forth the required showings needed to substantiate the need for the moratorium in urban and urbanized areas and in rural areas.<sup>22</sup> Moratoria may be adopted for 120 days and may be extended for up to 120 days in the same manner in which the original moratorium was adopted.<sup>23</sup> There is no statutory limit on how many times a moratorium may be renewed, but aggrieved landowners are granted 30 days to request a trial de novo challenging the moratorium after its adoption.<sup>24</sup>

California permits moratoria or interim ordinances for an initial period of 45 days upon a four-fifths vote of the legislative body.<sup>25</sup> Following the procedures set forth in the statute, the moratorium may be extended for 10 months and 15 days (to allow for a total length of one year), and such a moratorium may be renewed no

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<sup>20</sup>See, e.g., *Rubin v. McAlevey*, 54 Misc. 2d 338, 282 N.Y.S.2d 564 (Sup 1967), judgment aff'd, 29 A.D.2d 874, 288 N.Y.S.2d 519 (2d Dep't 1968).

<sup>21</sup>Az. Rev. Stat. § 11-833 (West Group 1998).

<sup>22</sup>*Id.*

<sup>23</sup>*Id.*

<sup>24</sup>*Id.*

<sup>25</sup>Cal. Gov. Code § 65858 (West Group 1998).

more than twice.<sup>26</sup> California further requires, as a justification for the interim ordinance, a finding of a current or immediate threat to public health, welfare, or safety, and that the interim ordinance is necessary to mitigate or avoid the threat.<sup>27</sup> Furthermore, where the legislative body desires to continue or extend the moratorium, ten days prior to its expiration the legislature must issue written reports of measures attempted to alleviate the problem.<sup>28</sup>

In Maine, moratoria may be adopted, based upon a finding of necessity, for up to 180 days.<sup>29</sup> The moratorium must be needed "A. To prevent a shortage or an overburden of public facilities that would otherwise occur during the effective period of the moratorium or that is reasonably foreseeable as a result of any proposed or anticipated development; or B. Because the application of existing comprehensive plans, land use ordinances or regula-

tions or other applicable laws, if any, is inadequate to prevent serious public harm from residential, commercial or industrial development in the affected geographic area."<sup>30</sup> The moratorium may be extended for additional 180-day periods if needed, so long as reasonable progress is being made to alleviate the necessity.<sup>31</sup>

Minnesota takes a slightly more restrictive approach to the length of a moratorium, limiting the total length to no more than 18 months, including any extensions.<sup>32</sup> The initial interim ordinance may not exceed 12 months, and it may be adopted "If a municipality is conducting studies or has authorized a study to be conducted or has held or has scheduled a hearing for the purpose of considering adoption or amendment of a comprehensive plan or official controls . . . for the purpose of protecting the planning process and

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<sup>26</sup>Id. In the alternative, the statute allows for a moratorium of 22 months and 15 days duration (which, after the initial 45 days, equals the three-year maximum) by a four-fifths vote after public notice and a hearing.

<sup>27</sup>Id.

<sup>28</sup>Id.

<sup>29</sup>30-A M. R. S. A. § 4356 (West Group 2002).

<sup>30</sup>Id.

<sup>31</sup>Id.

<sup>32</sup>M.S.A. § 462.355 (West Group 2002).



the health, safety and welfare of its citizens.”<sup>33</sup>

New Hampshire allows for the use of interim regulations for up to one year “in unusual circumstances . . . requiring prompt attention and for the purpose of developing or altering a growth management process . . . or a master plan or capital improvements program.”<sup>34</sup> New Jersey’s statute is even more restrictive, stating that “No moratoria on applications for development or interim zoning ordinances shall be permitted except in cases where the municipality demonstrates on the basis of a written opinion by a qualified health professional that a clear imminent danger to the health of the inhabitants of the municipality exists, and in no case shall the moratorium or interim ordinance exceed a six-month term.”<sup>35</sup> In Oregon, the Legislature has found that, for the enactment of a moratorium, clear standards needed to be established to ensure that “(a) The need for moratoria is con-

sidered and documented; (b) The impact on property owners, housing and economic development is minimized; and (c) Necessary and properly enacted moratoria are not subjected to undue litigation.”<sup>36</sup> Moratoria may be enacted for up to 120 days and may be renewed for up to six months.<sup>37</sup> The State of Washington permits moratoria by statute generally for up to six months, but up to one year “if a work plan is developed for related studies providing for such a longer period.”<sup>38</sup> Moratoria in Washington may be renewed at six-month intervals (no limit on the number of renewals), upon a public hearing and where findings of fact are made prior to each renewal.<sup>39</sup>

While state statutes could provide some clear temporal parameters for the use of moratoria, such an approach could also prove unrealistic given the underlying planning needs for a particular area (such is the example in the *Tahoe* case, which involved an interstate

<sup>33</sup>Id. at § 462.355(4).

<sup>34</sup>N.H. Rev. 674:23 (West Group 2002).

<sup>35</sup>N.J.S.A. 40:55D-90 (West Group 2002).

<sup>36</sup>O.R.S. § 197.510.

<sup>37</sup>O.R.S. § 197.520.

<sup>38</sup>RCWA 35A.63.220 (West Group 2002).

<sup>39</sup>Id.

compact and a regional planning agency charged with developing a plan for the protection and preservation of a significant natural resource). The U.S. Supreme Court recognized that “the interest in protecting the decisional process is even stronger when an agency is developing a regional plan than when it is considering a permit for a single parcel.”<sup>40</sup> This language reiterates the recognition of the importance of regional land use planning.

The debate on moratoria will undoubtedly find its way into the state legislative process. In all likelihood, non-governmental real estate development advocates will seek the legislative solution mentioned by the U.S. Supreme Court. Municipal and preservation advocates will attempt to preserve the status quo in most states, i.e., a common-law or judicial inquiry into the reasonableness of the duration of locally adopted land use moratoria. The American Planning Association’s recently released *Growing Smart Legislative*

*Guidebook* offers three alternative legislative approaches to dealing with moratoria that may be of some drafting assistance.<sup>41</sup> Whether a legislative solution is right, the U.S. Supreme Court did validate a long-standing and important planning tool that can help to ensure smart growth and quality communities across the country.

### **III. High Court Supports Local Regulation of Adult Business/Entertainment Use**

On May 13, 2002, the U.S. Supreme Court handed local governments another victory in continuing efforts to combat the secondary negative effects of adult business uses on communities. The latest ruling supports the City of Los Angeles’s efforts to restrict the concentration of adult business uses in the same structure by defining “business” to refer to certain types of goods and services sold in adult use establishments, rather than the

<sup>40</sup>Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency, 122 S. Ct. 1465, 1488 (U.S. 2002).

<sup>41</sup>American Planning Association, *Growing Smart Legislative Guidebook: Model Statutes for Planning and the Management of Change* (Stuart Meck, Gen. Ed.) (January 2002). Available at [www.planning.org](http://www.planning.org).

establishment/building itself.<sup>42</sup> The decision also demonstrates that the Supreme Court remains somewhat divided on how to determine when laws regulating sexually oriented businesses serve a substantial governmental interest sufficient to survive a First Amendment challenge, as the justices were unable to unite behind a majority rationale.<sup>43</sup>

As the number of adult businesses and the quantity of adult entertainment continues to increase exponentially,<sup>44</sup> municipalities routinely conduct what are referred to as "secondary effects studies" to document the justification for the adoption of local laws designed to regulate the establishment and operation of adult business uses such as bookstores, video stores, topless bars, movies, sex shops, and other related businesses. Justice Kennedy, in his concurring opinion, acknowledges "Municipal governments know that high con-

centrations of adult businesses can damage the value and the integrity of a neighborhood. The damage is measurable; it is all too real."<sup>45</sup>

A secondary effects study conducted by the City of Los Angeles in 1977 revealed, among other things, that neighborhoods with larger concentrations of adult businesses had higher crime rates, including more robberies, assaults, theft, and prostitution.<sup>46</sup> Based upon this study, the City concluded that the concentration of adult entertainment uses was of concern, and it enacted a law prohibiting the location of such uses within 1,000 feet of each other and within 500 feet of religious institutions, schools, or parks.<sup>47</sup> After discovering a "loophole" in the law which could arguably allow for "mega adult entertainment venues" or "sex superstores" (since the original law didn't restrict the size of adult uses, but merely stated that they

<sup>42</sup>City of Los Angeles v. Alameda Books, Inc., 122 S. Ct. 1728 (U.S. 2002).

<sup>43</sup>See U.S.L.W., "Justices Split Over Analysis of Laws Aimed at Sex Business' Secondary Effects," 70 U.S.L.W. 1683 (May 14, 2002).

<sup>44</sup>See Jules B. Gerard, *Local Regulation of Adult Businesses*, 2002 ed. (West Group 2001).

<sup>45</sup>City of Los Angeles v. Alameda Books, Inc., 122 S. Ct. 1728, 1739 (U.S. 2002) (Kennedy, J., concurring).

<sup>46</sup>City of Los Angeles v. Alameda Books, Inc., 122 S. Ct. 1728, 1732 (U.S. 2002).

<sup>47</sup>Id.

couldn't be within 1,000 feet of each other), the City amended the law in 1983 to address the effects of a concentration of adult entertainment uses by restricting the number of uses in any building to one. This would, for example, prevent an adult bookstore and an adult video arcade from sharing one roof.

When government attempts to regulate speech, it must do so within the parameters of the First Amendment. In a previous case, the Court set forth a three-part inquiry to determine the constitutionality of adult business regulations.<sup>48</sup> First, courts look to whether the regulation bans adult uses altogether or whether it simply restricts the time, place and manner of such uses. Assuming there is no outright ban, the courts consider whether the regulation is aimed at the content of the adult material or whether the regulation is aimed at secondary effects of such uses on the surrounding community. Lastly, the courts consider whether the local regulation is designed to serve

a substantial government interest and whether reasonable alternative means of communication are available.<sup>49</sup>

With regard to the first part of the test, the U.S. Supreme Court noted that the court below had held that the City's law was not an outright ban on adult businesses and that review of that determination by the Supreme Court had not been sought.<sup>50</sup> As to the second prong of the test, contrary to the Court of Appeals below, the Supreme Court determined that the City of Los Angeles properly relied upon a report of City crime patterns provided by the L.A. Police Department that clearly demonstrated that crime rates increased in parts of the City where the largest concentrations of adult uses were found. The Court also found that "reducing crime is a substantial government interest and that the police department report's conclusions regarding crime patterns may reasonably be relied upon,"<sup>51</sup> but cautioned that municipalities will not be able to "get away with shoddy data or

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<sup>48</sup>See *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41, 106 S. Ct. 925, 89 L. Ed. 2d 29 (1986).

<sup>49</sup>*Id.*, 475 U.S. at 50.

<sup>50</sup>*City of Los Angeles v. Alameda Books, Inc.*, 122 S. Ct. 1728, 1738 (U.S. 2002).

<sup>51</sup>*Id.*, 122 S. Ct. at 1734.

reasoning.’<sup>52</sup> The Court reiterated an earlier stated position that municipalities must be given a “reasonable opportunity to experiment with solutions”<sup>53</sup> in addressing the secondary effects of protected speech such as adult uses, and acknowledged that “the Los Angeles City Council is in a better position than the Judiciary to gather and evaluate data on local problems.”<sup>54</sup>

The Court concluded that the City did comply with the evidentiary requirements through the secondary effects study, and the case was remanded for further review in light of the holding that the City of Los Angeles could rely on the study. The plurality opinion was authored by Justice O’Connor, and joined by Chief Justice Rehnquist and Justices Scalia and Thomas. Justice Kennedy offered an opinion concurring in the judgment, but disagreeing with the plurality’s emphasis on the evidentiary burden of the secondary effects study. Justice Kennedy asserted that the proper inquiry with respect

to the secondary effects study is whether the law “will cause two businesses to split rather than one to close, that the quantity of speech will be substantially undiminished, and that the total secondary effects will be significantly reduced.”<sup>55</sup> He did not go so far as to accept that a secondary effects study is always necessarily content-neutral and stated, “It is no trick to reduce secondary effect by reducing speech or its audience; but a city may not attack secondary effects indirectly by attacking speech.”<sup>56</sup> At the other end of the spectrum, Justice Scalia’s concurring opinion reiterates his long-standing belief that government may constitutionally regulate and suppress “the business of pandering sex” without conducting secondary effects studies.<sup>57</sup>

As for the dissent, Justices Souter, Stevens, Ginsburg, and Breyer remained unconvinced that Los Angeles had justified its ordinance against multiple-use adult businesses. Writing for the dissent, Justice Souter reasoned that the ordinance

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<sup>52</sup>Id., 122 S. Ct. at 1736.

<sup>53</sup>Id.

<sup>54</sup>Id., 122 S. Ct. at 1737.

<sup>55</sup>Id., 122 S. Ct. at 1742 (Kennedy, J., concurring).

<sup>56</sup>Id.

<sup>57</sup>Id., 122 S. Ct. at 1738-39 (Scalia, J., concurring).

would only make it more expensive for adult businesses to operate, stating, "Every month business will be more expensive than it used to be, perhaps even twice as much. That sounds like a good strategy for driving out expressive adult businesses. It sounds, in other words, like a policy of content-based regulation."<sup>58</sup>

The practical effect of this decision is that local governments may continue to use secondary effects studies to demonstrate the negative impacts on communities that face a concentration of adult business/entertainment uses. These studies have now been recognized repeatedly by the Supreme Court as a valid justification for the need to regulate the time, place, and manner of adult-oriented businesses for the purpose of addressing the secondary effects, not for the purpose of suppressing speech. And, as one reporter correctly observed, "as the demand for adult material exists, businesses will be around to meet the demand."<sup>59</sup>

#### IV. Conclusion

All in all, the 2001-2002 term of the U.S. Supreme Court

boded well for municipal governments, who had experienced significant defeats over the last few years in the area of regulation of land use. Truth be told, once the facts are examined in each of the cases, there are no winners and losers, just a further clarification of the articulated law as it applies to the particular situations presented. The U.S. Supreme Court did nothing more to "advance" the law of "regulatory takings" in its most recent takings case. The greatest "victory" was the first formal recognition of the valid use of moratoria by the U.S. Supreme Court. In the area of adult uses, the Court also made no new law. The fact remained that local governments could rely on secondary effects studies as a justification for the public purpose supporting the regulation of sexually oriented businesses.

<sup>58</sup>Id., 122 S. Ct. at 1751 (Souter, J., dissenting).

<sup>59</sup>Mark Pollio, "Attorneys Weigh Adult Store Ruling," *The Stuart News/Port St. Lucie News*, p. B7 (5/19/2002).