

Koontz and the End of Western Civilization

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U.S. Supreme Court's Decision

All justices agree that condition subsequent vs. condition precedent does not matter – that it does not matter whether permit says “approved if” or “denied until.”

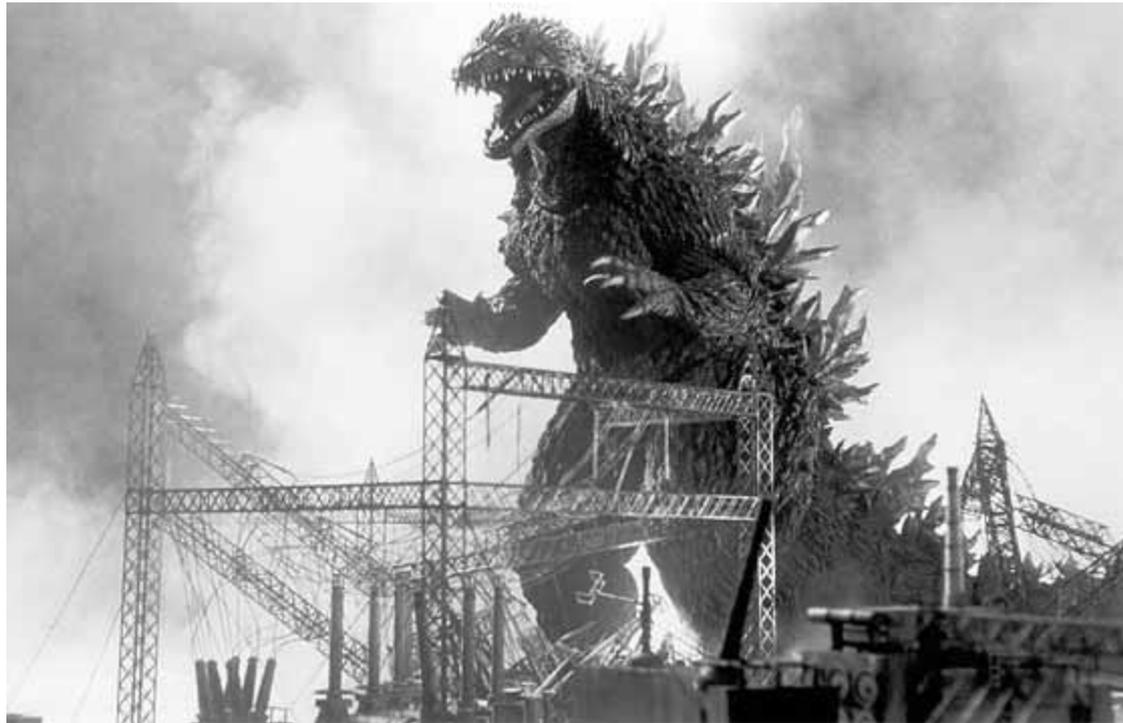
- AND -

Because Koontz did not accept the permit with the unconstitutional condition, all justices agree that no property was “taken” under federal constitutional law such that Koontz is entitled to “just compensation”

Justices disagree about whether permit conditioned on payment or expenditure of money triggers heightened review under the *Nollan/Dolan* standard. Majority holds that it does.

Burden is on government to establish nexus and proportionality.

Land Use Negotiations Prior to *Koontz* = Tilted Bargaining Table



Land Use Negotiations after *Koontz* = Slightly Less Tilted



So, does *Koontz* signal the end of Western Civilization?

Many say it does because government will simply deny permits, development and local services will cease, and the fabric of Western Civilization will crumble. We disagree.

Many said the same thing when the Florida Legislature in 1995 passed the Bert J. Harris Jr., Private Property Rights Protection Act, § 70.001, Fla. Stat. They were wrong.

Government has – and will continue to – talk to property owners because its interests run parallel with those of property owners.

DEVELOPMENT = HIGHER TAX BASE =

MORE MONEY FOR GOVERNMENT TO “GOVERN”