

Hillcrest Property, LLP v. Pasco Cnty., 915 F.3d 1292 (11th Cir. 2019).

The Eleventh Circuit Holds Koontz Takings Analysis Does Not Apply When Petitioner Claims Government Violated Substantive Due Process Rights.

Hillcrest Property (“Hillcrest”) owns undeveloped commercially-zoned land in Pasco County. Hillcrest applied to Pasco County (“County”) to develop its property. The County informed Hillcrest that it would require Hillcrest to dedicate right-of-way land for the future development of a state road pursuant to a local ordinance. The County’s ordinance applied to all development on land within the County’s corridor-preservation map, which included land the County believes it will require to adequately provide for transportation. Hillcrest submitted its site plan, but objected to the right-of-way dedication. The County approved Hillcrest’s construction plan, but on the condition that they reach an agreement on the right-of-way dedication.

Hillcrest brought suit in federal court alleging the County violated its substantive due process rights because the County never (1) made an individualized determination that the exaction was reasonably related to the traffic impacts of the proposed development; (2) clearly demonstrated a reasonable connection or rational nexus between the need for the right-of-way and the traffic generated by the development, as well as between the exaction and the benefits accruing from the development, and (3) demonstrated that the need to widen the state road was substantial and demonstrably clear and present so as to appear that Hillcrest’s development will overburden the road in the immediate future. The trial court ruled in favor of Hillcrest, but the court of appeals reversed.

The court of appeals rejected Hillcrest’s argument that land use rights are fundamental rights. Hillcrest cited *Koontz v. St. Johns River Water Management District*, 568 U.S. 936 (2013) to support its argument. The court of appeals, however, distinguished Hillcrest’s case because it only alleged that the County imposed the type of unconstitutional-condition forbidden by *Koontz*. But, Hillcrest failed to argue that the unconstitutional-condition infringed on some other *enumerated* right. The Eleventh Circuit held that the rationale laid out in *Koontz* would apply to a right expressly enumerated in the constitution, but would not apply to un-enumerated rights like substantive due process.

The court of appeals also rejected Hillcrest’s argument that substantive due process extends to the application of land use laws already in effect. The court recognized precedent stating that a legislative act can violate a person’s substantive due process rights when it infringes on a state-created right. The court of appeals, however, would not extend the application of substantive due process analysis to executive acts.