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## Book Review by Li Sun

Takings international: A comparative perspective on land use regulations and compensation rights, edited by Rachelle Alterman, Chicago, IL, ABA Publishing, 2010, 390 pp., \$75.95 (ABA members), \$94.95 (nonmembers) (paperback), ISBN 978-1-60442-550-5

This is a pioneering book which aims to provide much needed insight into regulatory takings and compensation. Through contributions by Alterman and 16 other authors developing insights from 13 countries, the book provides a first comprehensive cross-national comparative study on regulatory takings. The 13 countries, located on four continents, represent two major western legal traditions. Five are common law countries (the UK, Canada, Australia, the USA, and Israel), while the other eight are civil law countries (France, the Netherlands, Sweden, Finland, Germany, Austria, Poland, and Greece). Furthermore, of the 13 countries, five are federal countries: the USA, Canada, Germany, Austria, and Australia. In the case of the USA, an additional chapter has been written about the state of Oregon. Therefore, a total of 14 jurisdictions (13 countries plus Oregon) are described in this book.

Alterman sets out the goal of this comparative study to construct a fundamental layer of knowledge that describes the various laws on regulatory takings, and indicates what the various similarities and differences are. The book, adopting a descriptive-analytical rather than normative approach, does not aim to give policy advice, but rather to show proponents and opponents alike that a variety of systems are successfully used in practice in other developed nations. Alterman asked each contributor to address the following main questions: under your country's laws, do landowners have the right to claim compensation when a government decision related to planning, zoning, or development control causes a reduction in property values? And if so, what are the legal and factual conditions that a landowner must meet to claim compensation? How extensive are such claims in practice?

This comparative study analyzed three main types of regulatory takings, as identified by Alterman, which are: major takings, partial takings due to direct injuries, and partial takings due to indirect injuries. The countries are categorized into three clusters, representing the breadth of compensation rights. Cluster 1 countries (Canada, Australia, the UK, France, and Greece) have minimal compensation rights. Cluster 2 countries (Finland, Austria, and the USA) have moderate or ambiguous compensation rights. Cluster 3 countries (Poland, Germany, Sweden, Israel, and the Netherlands) have extensive compensation rights. Then, within each cluster, countries are ordered based on the extensiveness of compensation rights. For example, Canada is on the leftmost end of the spectrum with the lowest degree of compensation rights, while the Netherlands is on the rightmost end of the spectrum with the broadest compensation rights.

Based on the evidence from the 13-country study, Alterman argued that there is no European approach to regulatory takings. Although all European countries are bound by the European Convention on Human Rights and Fundamental Freedoms (ECHR), the interpretation of both property rights and public interest vary from one country to the next. The nine European countries in this book reveal the full scale of legal approaches to regulatory takings. In other words, these nine European countries are different from each other, even extremely so. For example, the planning statute of France reads that land use regulation is not to be compensated, while the law in the Netherlands grants compensation even for regulatory takings of a minute degree and of indirect effect. The other seven European countries are placed in between these

two on the scale. Furthermore, the comparative findings indicate there is no unitary British-legacy approach to contrast with the US approach. There are four countries that used British law in the past century (i.e. the UK, Canada, Australia, and Israel), yet these cover both extremes on the spectrum as Canada has tremendously restrictive compensation rights while those of Israel are extensive. As for the USA, its takings laws are average on both major takings and partial takings, and this study shows that US regulatory takings law is more generous to landowners than that of most other countries.

Alterman noted that the differences between the countries cannot be explained by the variables, such as legal families, institutional structure, geography, and cultural similarity. Thus, the question of why a certain legal approach on regulatory takings developed in a particular country at a specific time requires further study, which needs contributions by historians or political scientists. The structure of the book is well organized, and includes four parts consisting of 17 chapters. In the first part, Alterman presents the book in three chapters: the framework, comparative analysis, and conclusions. The remaining 14 chapters cover the 14 jurisdictions mentioned previously, written by the contributing authors. These chapters are categorized into three parts based on the breadth of compensation rights of each country. Part 2 covers countries with minimal compensation rights; part 3 addresses countries with moderate or ambiguous compensation rights, and part 4 are those with broad compensation rights.