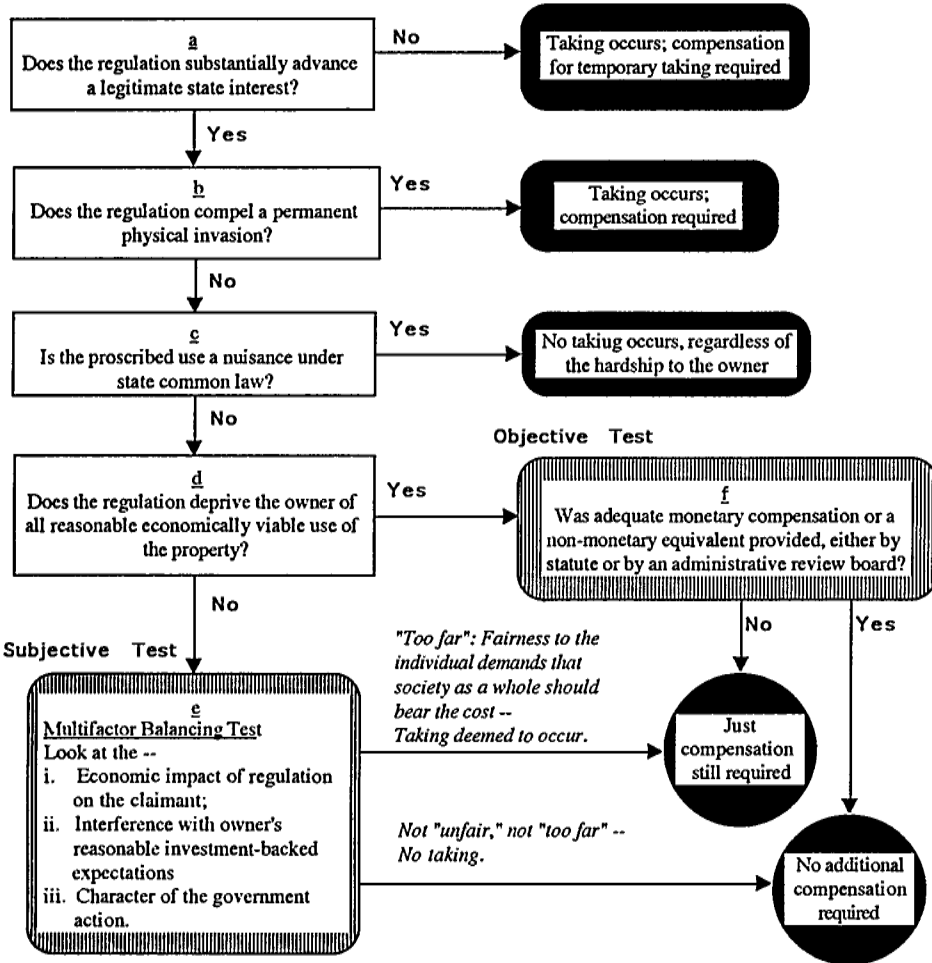


Post-Lucas Regulatory Takings Analysis



a. See *Nollan v. California Coastal Commission*, 483 U.S. 825 (1987). See also text at note 24.
 b. See *Loretto v. Teleprompter Manhattan CATV Corp.*, 458 U.S. 419 (1982). See also note 26 and accompanying text.
 c. See *Lucas v. South Carolina Coastal Commission*, 112 S.Ct. 2886 (1992). See also notes 29 and 205 and accompanying text.
 d. See *Lucas v. South Carolina Coastal Commission*, 112 S.Ct. 2886 (1992). See also notes 28-35 and accompanying text.
 e. See *Keystone Bituminous Coal Ass'n v. De Benedictis*, 480 U.S. 470 (1987). See also notes 47-51 and accompanying text.
 f. See note 68 and accompanying text.

may employ non-monetary compensation (such as granting transfer development rights (TDRs), if deemed legitimate compensation, or finding an "average reciprocity of advantage" to the owner) when a narrow property definition causes a total deprivation. Such treatment of "property" would allow the Court to avoid the subjectivity of the multifactor balancing test and shift the analysis into the objective realm of whether the form of compensation is "just." This route also separates the examination of whether such compensation is just, because non-monetary compensation is included within the muddle of the balancing test and too easily presumed "just" (as in *Penn Cent. Transp. Co.*).