



DEPARTMENT OF THE ATTORNEY GENERAL

**News Release**

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**U.S. Supreme Court Rules in Hawaii's Favor in Lingle v. Chevron**

HONOLULU - The United States Supreme Court, in an opinion authored by Justice Sandra Day O'Connor and issued today, unanimously reversed the decision of the United States Court of Appeals for the Ninth Circuit in Linda Lingle, et al v. Chevron U.S.A. Inc. That decision had held unconstitutional, under the Takings Clause of the United States Constitution, a law limiting the rent large oil companies can charge independent service station owners in Hawaii.

The High Court disavowed the test utilized by the Ninth Circuit, and found that the law did not in any way offend the Takings Clause. Echoing Hawaii's argument, the High Court stated: "We find the proceeding below, remarkable, to say the least." The Court affirmed the right of the legislative and executive branches of government, not the judicial branch, to set economic policy in the United States.

The Court noted that the Ninth Circuit's decision "would require courts to scrutinize the efficacy of a vast array of state and federal regulations – a task for which courts are not well suited. Moreover, it would empower – and might often require – courts to substitute their predictive judgments for those of elected legislatures and expert agencies."

(more)

"I am delighted that the High Court has unanimously overturned the Ninth Circuit's decision, and reaffirmed that it is the legislative and executive branches of government that set economic policy in this nation," said Attorney General Mark Bennett, who argued the case for Hawaii in the Supreme Court in February 2005. "We brought this case to the High Court because we believed the principle involved was of paramount importance. Had this decision gone the other way, it could have had devastating consequences for states and municipalities throughout the United States."

"I am also very pleased that the Supreme Court accepted the totality of our argument, and disavowed completely the test relied upon by the Ninth Circuit, which had been referenced in various Supreme Court decisions over the last twenty-five years. Today's unanimous decision brings back clarity to an area of the law in which it had been sorely lacking for several decades," Bennett said.

### Background

Act 257 was enacted by the Hawaii legislature in 1997 to address concerns regarding the high economic concentration in the wholesale market for oil products and gasoline in the State, which is served by only two refiners. To ensure that retail prices for gasoline continue to be set by the many independent gas station operators in the State, Act 257 contains several provisions intended to prevent oil companies and jobbers from converting existing leased stations to company-operated stations. One provision, designed to prevent the oil companies from increasing rents to drive independent dealers out of business, caps the total rent that oil companies and jobbers may charge their dealers.

Chevron USA, Inc., the largest refiner and marketer of gasoline in Hawaii, sued the Governor and Attorney General of Hawaii in federal court, claiming that this restriction on rents constituted a taking of Chevron's property in violation of the Fifth Amendment to the United States Constitution. Chevron did not seek compensation for the alleged taking, and stipulated that it was receiving a return on its gas stations under

Act 257 that "satisfies any Constitutional standards." Chevron nonetheless argued that, as a matter of economic theory, the rent cap in Act 257 would not accomplish its goals, and therefore did not "substantially advance a legitimate state interest." Refusing to give deference to the judgment of the Hawaii legislature regarding the need for and effectiveness of the rent law, the federal district court held a one-day trial at which expert economists debated whether Act 257 would achieve its goal of protecting consumers from high gasoline prices. In April 2002, the district court agreed with Chevron's economist that the law would be ineffective and declared the law unconstitutional.

The Court of Appeals for the Ninth Circuit affirmed the district court's judgment on April 1, 2004. Chevron USA, Inc. v. Lingle, 363 F.3d 846 (9th Cir. 2004). The Court of Appeals rejected the State's position that the Just Compensation Clause of the Fifth Amendment does not authorize federal courts to review the wisdom of state legislation.

On July 30, 2004, the State petitioned the United States Supreme Court for a writ of certiorari, arguing that the intrusive review conducted by the federal courts of state legislation in this case threatens principles of democratic government and federalism. The Supreme Court granted the State's petition on October 12, 2004. Attorney General Bennett argued the case for Hawaii on February 22, 2005.

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