

Property rights proponent says 'tail wagging dog' in the U.S.

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lots, Lucas discovered what he called a government gone awry, with "the tail wagging the dog."

Landowners from coast to coast have seen golf course proposals squashed by agencies like South Carolina's Coastal Commission, and similar private environmental groups. They might take notice of the newly incorporated Council on Property Rights, in which Lucas has pulled together a high-powered team to put a stop to what he feels is government's environmental steamroller.

The 46-year-old Mount Pleasant, S.C., resident is devoting his full time to the council. "The American property owner is a sleeping giant. We want to wake him up so that when he growls these [government officials and public boards] will listen to him. If he doesn't wake up, he will die the death of a thousand cuts, no question about it," he said.

Lucas envisions the Council on Property Rights as an umbrella organization for the hundreds of property-owner groups scattered around the country.

"Hopefully, this will take some of the pressure off golf course owners, and other developers, too. It will give city councilors and other lawmakers pause to think," said Lucas, who received a \$1,575,000 settlement from the Coastal Commission.

"In the settlement," Lucas said, "the state paid me, took the two lots, and is selling them for people to build houses on. That's what they fought for five years to keep me from doing. They rationalized that it's just two lots and there are houses on both sides of it, so it makes more sense to sell it. We said, 'You hypocrites. That's exactly what we argued in the beginning.'"

Despite the importance of the Supreme Court case, Lucas said he has talked to real-estate developers who weren't even aware of it.

"People need to know about it. There was a lot of publicity going in, but a dearth after it," he said.

In the Council for Property Rights, "people now have an instrument to use ... to get reasonable treatment," said Ray Finch Jr., part owner of Emerald Dunes golf course in West Palm Beach, Fla.

ISSUES OUTSTANDING

Regulation may soon get much worse, Lucas warned, claiming the Clinton Administration's agenda is three-pronged:

- The Clean Water Act is up for renewal. "The administration wants to strengthen it. It wants to regulate and prohibit more," he said.

- The Endangered Species Act, which will list some "800 critters, from minute beetles to grizzly bears,

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Supreme Court ruling set stage for landowners' council

The Council on Property Rights was born from the U.S. Supreme Court decision in *Lucas v. South Carolina Coastal Council*.

The High Court declared on June 29, 1992: "Regulations that deny the property owner all 'economically viable use of his land' constitute one of the discrete categories of regulatory deprivations that require compensation without the usual case-specific inquiry into the

public interest advanced in support of the restraint."

When Lucas sold Wild Dunes golf facility in Charleston, S.C., in 1986 he bought two residential lots on nearby Isle of Palms for \$975,000, intending to build single-family homes like those on adjacent parcels. But in 1988 the state Legislature enacted the Beachfront Management Act, which barred Lucas from building. He filed suit, winning

in state trial court and being awarded more than \$1.2 million, but losing in the state's appeal to the state Supreme Court.

Reversing that decision, the U.S. Supreme Court ruled that by preventing Lucas from building on his land, the Coastal Commission accomplished "a taking of private property ... requiring the payment of 'just compensation.'"

"The state legislature cannot

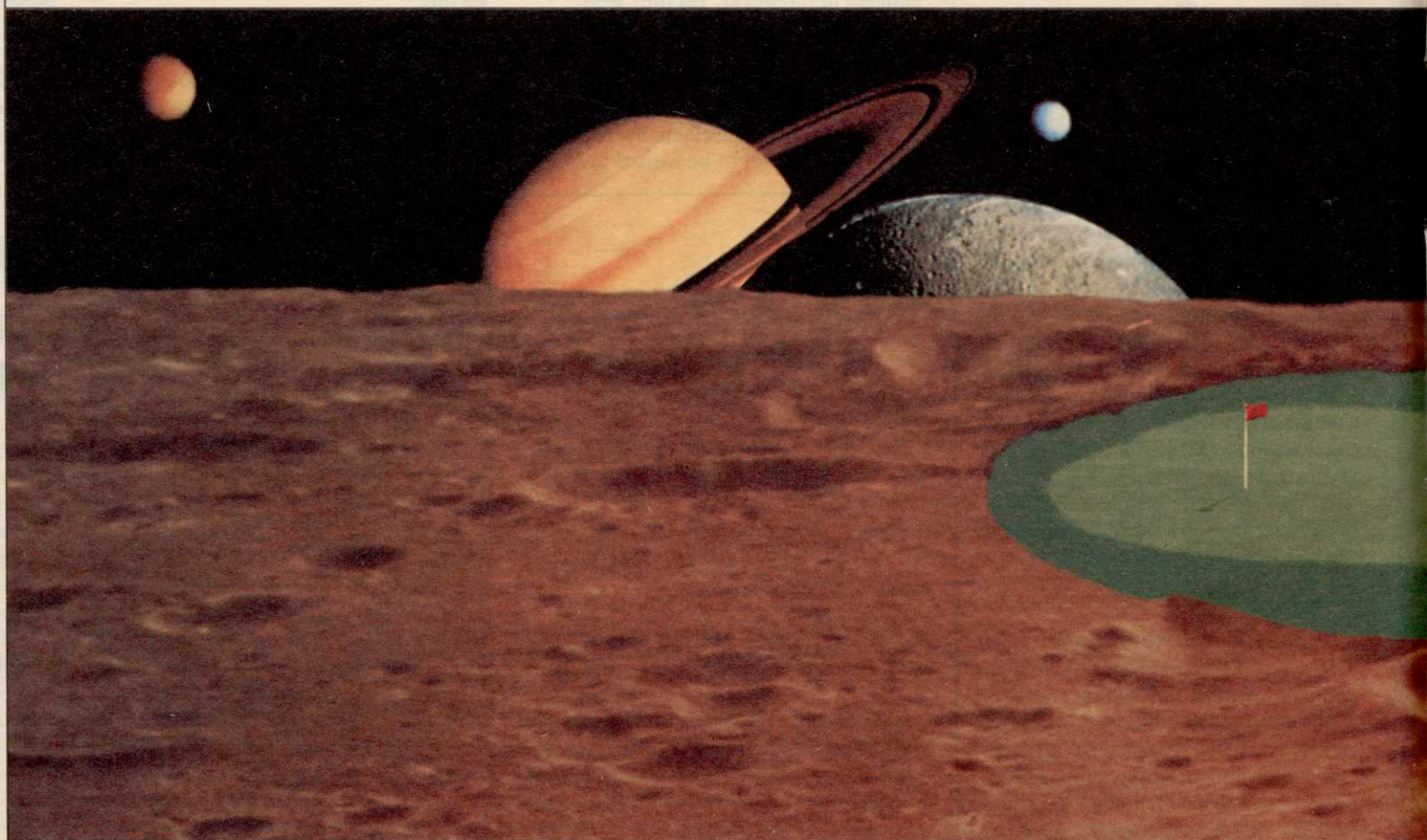
outlaw certain activities unless it is rooted in the common law of nuisance," Lucas said. "If you follow that through, you can make an argument that zoning laws are not there to do away with a nuisance. They are unconstitutional in that they discriminate against particular property owners. How can you have class discrimination like that? Why is one piece of property discriminated against?"

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