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SUPREME COURT SAYS NO: MARATHON WILL PAY UP IN TAKINGS CASE OVER OFFSHORE ISLAND

By **Alex Rickert** - June 11, 2026



Located just off Marathon's gulf shoreline and west of Stirrup Key, the 7.9-acre Shands Key is the subject of an upcoming multimillion-dollar settlement in a landmark takings case. CONTRIBUTED

After finding a closed door at the U.S. Supreme Court, the city of Marathon will look to settle arguably the heftiest takings case in its history.



On June 8, the nation's highest court declined to take up the landmark lawsuit that could weigh heavily on future land use cases throughout the Florida Keys, mirroring the Florida Supreme Court's decision from December 2025 in "the Shands case."

The nearly 20-year lawsuit began over a small uninhabited island off the gulf coast of Marathon. In 1956, Dr. R.E. Shands purchased the island at auction for \$20,500, hoping to eventually establish a vacation destination for his family. When he bought the 7.9-acre property, its zoning allowed construction of one home per acre.

Shands passed away in 1963 – giving ownership of the island to his wife and later her four children. The island was reclassified in 1986 as a "Conservation Offshore Island" in Monroe County's comprehensive plan, allowing just one home per 10 acres or use of the land for camping and beekeeping.

When Marathon incorporated in 1999, the city kept the changes, denying a dock permit for the property five years later and offering Transferable Development Rights (TDRs) to the family in exchange for publicly dedicating the island.

In 2007, the then-seated Marathon City Council voted 3-2 to reject recommendations by a special master to either purchase the island at a cost of \$3 million or allow the family to build a single home.

The ensuing takings lawsuit, triggered when owners of theoretically buildable land are denied the opportunity to do so, escalated to Florida's Third District Court of Appeals in February 2025. The court sided with the Shandses, and Marathon elected for an appeal to the Sunshine State's highest court, which also declined to take up the suit before the city's final appeal to Washington.

Now, the parties will work to arrive at just compensation for the island – a decision that could reverberate through the fates of hundreds of offshore islands and buildable lots

throughout the Florida Keys.



"This case reinforces a basic constitutional principle: When the government takes away all meaningful use of private property, it must provide just compensation," said attorney Jeremy Talcott of the Pacific Legal Foundation, which represented the Shands family in the case. "The court rejected the city's attempt to substitute transferable development rights for the constitutional protections guaranteed by the Fifth Amendment. The Shands family persevered through decades of litigation to secure a ruling that will protect property owners across Florida."

With the principle of the case settled, the compensation for the island is the final question mark, and could still take months or years to play out in courtrooms. Speaking to the Weekly on June 9, Marathon City Attorney Steve Williams said the parties had yet to begin negotiations on a settlement, including a potential seven-figure monetary payment or allowing development on the island.

The decision may serve as a crucial piece of case law as the Keys continue to restrict development through the Rate of Growth Ordinance, based on principles of safe hurricane evacuation and protection of the island chain's delicate habitat. But thanks to a specialized carve-out in 2025 state legislation, the question of "who pays when building rights run out?" for roughly 3,000 vacant buildable lots in Monroe County won't be answered just yet.

Last June, Gov. Ron DeSantis' signature on Senate Bill 180 greenlit a round of 900 new building rights to be distributed throughout the Keys over a 10-year timeline, changing the mandatory hurricane evacuation clearance time in the islands from 24 to 24.5 hours.

The rights are restricted exclusively for one unit per vacant, buildable parcel of land. The last-minute carve-out in the bill served as a sigh of relief for Keys municipalities that had virtually exhausted all available building rights after a contentious year of meetings, workshops and surveys over how to handle the future of development in a delicate ecosystem.



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Alex Rickert made the perfectly natural career progression from dolphin trainer to newspaper editor in 2021 after freelancing for Keys Weekly while working full time at Dolphin Research Center. A resident of Marathon since 2015, he fell in love with the Florida Keys community by helping multiple organizations and friends rebuild in the wake of Hurricane Irma. An avid runner, actor, and spearfisherman, he spends as much of his time outside of work on or under the sea having civil disagreements with sharks.