Anthony Palazzolo, in a file photo, stands on the edge of a plot of undeveloped land in Winnapaug Pond in Westerly, R.I. Mr. Palazzolo claimed his constitutional rights had been violated when state laws were passed that kept him from developing his land.

Court issues splintered ruling in private land case

By Larry Margasak
Associated Press

WASHINGTON | The Supreme Court ruled Thursday that a Rhode Island man has the right to challenge the state's prohibition on development of his coastal marshland property. However, it sidestepped a chance to yield a more sweeping decision on governmental property-taking rights.

The splintered ruling in Anthony Palazzolo's 40-year struggle to build on the land left each side of the property-rights issue – conservatives and officials of Rhode Island – with something to boast.

Mr. Palazzolo's fight became a rallying point for conservatives angry over government regulation of private property. But the court shied away from delivering a sweeping analysis of governmental property-taking rights.

Justice Anthony M. Kennedy wrote the majority opinion and was joined by five other justices in whole or in part. Three justices dissented, and one concurred in part and dissented in part.

"Today's ruling ... sends a clear message to state and federal regulators across the country that, no matter how well-intentioned their environmental goals, they cannot simply put a freeze on the use of private prop-

erty without giving the owner a fair price for it," said Pacific Legal Foundation attorney Jim Burling. The foundation represented Mr. Palazzolo.

Rhode Island Attorney General Sheldon Whitehouse countered, "The important point is, under the theory Mr. Palazzolo pursued, he lost and he lost flat out."

Roger Pilon, vice president of legal affairs at the Cato Institute, said the most important element of Thursday's ruling "was in the court's rejection of the state's claim that Palazzolo was barred from suing because he took title after the effective date of the (state) regulations."