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Brockton Power LLC v. City of Brockton

United States District Court, D. Massachusetts - May 30, 2013 - Slip Copy - 2013 WL 2407220

Plaintiffs were developers who wished to build an electric power generating facility on land they own in Brockton, Massachusetts. They sued the city, its planning board and city council, and seven of its present and former officials, alleging violations of 42 U.S.C. § 1983 and state law based on a conspiracy to systematically deprive plaintiffs of various constitutional rights, including the right to develop their land.

The city and the planning board answered the complaint, but the remaining eight defendants moved to dismiss it in its entirety. They challenged it on numerous grounds: (i) absolute legislative or quasi-judicial immunity; (ii) First Amendment immunity; (iii) qualified immunity; and (iv) specific attacks on the sufficiency of allegations against individual defendants with respect to each discrete claim.

According to the plaintiffs, the nature of the alleged conspiracy, the serial litigation that resulted, and the overall egregiousness of the defendants' collective actions remove this case from the realm of "run of the mill" land-use disputes that federal courts have been reluctant to entertain. It is against this backdrop, which consists of substantially more than "threadbare recitals of the elements of a cause of action," that the court considered the moving defendants' requests for dismissal. The court concluded that the moving defendants' were not entitled to dismissal on any of their asserted grounds.

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