

Bond Case Briefs

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SIGNAGE - SOUTH DAKOTA

Lamar Advertising of South Dakota, Inc. v. City of Rapid City

United States District Court, D. South Dakota, Western Division - September 29, 2015 - F.Supp.3d - 2015 WL 5714869

Outdoor advertising company, together with company having ownership interest in several parcels of real property leased by first company for its outdoor advertising signs, brought action against city, asserting that two citizen-initiated billboard ordinances contradicted state law, resulting in a taking of private property without just compensation, and violated rights of freedom of speech and equal protection secured by the United States and South Dakota Constitutions.

The District Court held that:

- Plaintiffs failed to demonstrate “good cause” to amend their complaint to include theory of recovery based on defendants’ pre-initiative denial of advertising company’s six billboard applications, and
- Plaintiffs’ regulatory takings claims were not ripe.

Plaintiffs, an outdoor advertising company and a landowner that brought action challenging city’s citizen-initiated billboard ordinances, failed to demonstrate “good cause” to amend their complaint, pursuant to motion made immediately prior to start of trial in response to court’s pretrial ruling granting city’s second motion in limine, to include theory of recovery based on defendants’ pre-initiative denial of advertising company’s six billboard applications. Plaintiffs were aware of their theory of damages for more than two years yet did not seek to amend their complaint, and nowhere in plaintiffs’ oral or written arguments did they identify a reason, let alone demonstrate good cause, for their failure to include such theory in their complaint.

Regulatory takings claims asserted by plaintiffs, an outdoor advertising company and a landowner that brought action challenging city’s citizen-initiated billboard ordinances, were not ripe. There was no evidence that compensation to plaintiffs was unavailable or otherwise foreclosed, plaintiff did not even apply for the permits necessary to convert the 11 signs at issue to digital, let alone seek any type of administrative remedy, and plaintiffs did not pursue an available state-court inverse-condemnation action, but, instead, chose to file their claims in federal court.