

Bond Case Briefs

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MUNICIPAL ORDINANCE - CALIFORNIA

San Francisco Apartment Association v. City and County of San Francisco

United States Court of Appeals, Ninth Circuit - February 8, 2018 - F.3d - 2018 WL 774001 - 18 Cal. Daily Op. Serv. 1315

Individual property owner and organizations of landlords, property managers, and real estate agents brought action in state court against municipality and county, alleging that ordinance that imposed requirements on the process of negotiating tenant buyouts violated United States and California constitutional rights to free speech, to enter into voluntary settlement of disputes, to equal protection and due process, and to privacy.

Municipality and county removed case to federal court. The United States District Court for the Northern District of California granted judgment on the pleadings for municipality and county. Individual and organizations appealed.

The Court of Appeals held that:

- Requirement that landlord retain copies of signed disclosure forms did not condition right to commence buyout negotiations on tenant having signed form;
- Discussion between landlord and tenant about possibility of entering into buyout agreement, as required by municipal ordinance, was commercial speech;
- Ordinance requiring landlord to provide tenant with certain disclosures on authorized form and to certify that he or she provided such disclosures prior to negotiating buyouts with tenant passed First Amendment scrutiny for restrictions on commercial speech;
- Disclosures that ordinance compelled landlords to make to tenants before engaging in buyout negotiations were purely factual, and thus rational basis review applied to landlord organizations' challenge to ordinance on the basis that it violated the First Amendment by compelling speech;
- Ordinance did not violate California's constitutional right to privacy;
- Ordinance requiring landlords to make certain disclosures to tenants and inform tenants of their rights with regard to buyout negotiations and agreements had rational basis;
- Ordinance requiring redaction of tenant's identity from publicly searchable database of buyout agreements, but not the landlord's identity, was rationally related to municipality's legitimate interest in reducing information asymmetry between tenants and landlords and improving inferior bargaining position of tenants in buyout negotiations while protecting tenant privacy; and
- Ordinance establishing that property was not eligible for condominium conversion for 10 years after owner or former owner entered into buyout agreement with senior, disabled, or catastrophically ill tenant, or with two or more tenants in same building, did not violate constitutional freedom of contract.