

Bond Case Briefs

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EMINENT DOMAIN - MICHIGAN

Lumbard v. City of Ann Arbor

United States Court of Appeals, Sixth Circuit - January 10, 2019 - F.3d - 2019 WL 150856

Homeowners filed § 1983 action against city alleging that ordinance requiring them undergo structural renovations to their homes to alleviate storm water drainage problems amounted to taking without just compensation.

The United States District Court dismissed complaint, and homeowners appealed.

The Court of Appeals held that:

- Homeowners waived prudential requirement of exhaustion of state remedies, and
- Final judgments entered in homeowners' prior state court actions precluded them from asserting federal takings claims.

Homeowners waived prudential requirement of exhaustion of state remedies for ripeness in federal court with regard to their claim that city ordinance requiring them undergo structural renovations to their homes to alleviate storm water drainage problems amounted to taking without just compensation by obtaining remand to state court after city removed homeowners' state court action to federal court on ground that federal claims were unripe.

Under Michigan law, final judgments in homeowners' prior state court actions adjudicating their takings claims under state law precluded them from asserting federal takings claims in their § 1983 action against city; if Takings Clauses in Michigan and federal constitutions were coextensive, then issue preclusion barred subsequent litigation of federal takings claim after litigation of state takings claim on merits, and if Takings Clauses were not coextensive, then claim preclusion barred subsequent litigation of federal takings claim because it should have been brought in first instance in state court.