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EMINENT DOMAIN - CALIFORNIA

[MHC Financing Ltd. Partnership v. City of San Rafael](#)

United States Court of Appeals, Ninth Circuit - April 17, 2013 - F.3d - 13 Cal. Daily Op. Serv. 3766

City's mobile home rent ordinance did not constitute Penn Central regulatory taking, even if mobile home park would be worth much more if no regulation was in place, where park owner purchased property when prior version of ordinance was in effect, and current ordinance was only slight modification of that ordinance.

City amended its mobile home rent ordinance to remove the sliding scale for pad rent increases and instead limit increases to a flat 75% of the change in CPI. The amendments also altered rent increases related to capital improvements.

Mobile home park owner brought actions alleging that the ordinance breached terms of settlement agreement and violated its constitutional rights.

The court of appeals held that:

- Res judicata did not bar owner's takings claims;
- Ordinance did not constitute Penn Central regulatory taking;
- Ordinance did not constitute private taking;
- Ordinance did not violate owner's substantive due process rights; and
- Question of whether settlement agreement required city to repeal ordinance was for jury.

A regulatory taking may occur, and just compensation is required, when regulatory actions occur that are functionally equivalent to classic taking in which government directly appropriates private property or ousts owner, with inquiry focusing directly upon severity of burden that government imposes upon private property rights.

In this case, the city's mobile home rent ordinance did not constitute Penn Central regulatory taking, even if mobile home park would be worth much more if no regulation was in place, where park owner purchased property when prior version of ordinance was in effect, and current ordinance was only slight modification of that ordinance.