
TAKINGS - CALIFORNIA

Valerio v. City of San Diego

United States District Court, S.D. California - June 17, 2013 - Slip Copy - 2013 WL 3049126

The principal planner in San Diego's Development Services Department ("DSD") historical resources section approved plaintiff's application to advertise on the side of a building. Plaintiff then entered into a lease agreement with the owner of the building.

DSD subsequently notified plaintiff that DSD was revoking the advertising permit, thereby nullifying Plaintiffs' authorization to proceed with the signage.

Plaintiffs sued the city and others, alleging: (1) violation of Fifth and Fourteenth Amendment right to procedural due process; (2) unlawful taking without just compensation; (3) violation of Fifth and Fourteenth Amendment right to substantive due process; (4) intentional misrepresentation; (5) violation of California Civil Code § 52.1, and requesting injunctive relief.

The district court:

- Denied defendants' motion for judgment with respect to qualified immunity;
- Denied defendants' motion for judgment with respect to plaintiffs' takings claim;
- Denied defendants' motion for judgment with respect to plaintiffs' Fourteenth Amendment due process;
- Denied defendants' motion for judgment with respect to plaintiffs' Fourteenth Amendment substantive due process rights;
- Granted defendants' motion for judgment for immunity from intentional misrepresentation as to the city;
- Denied defendants' motion for immunity from intentional misrepresentation as to DSD planner;
- Denied defendants' motion for judgment with respect to plaintiffs' request for injunctive relief; and
- Granted defendants' motion for judgment with respect to California Civil Code § 52.1.

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