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Nellis v. City of Coon Rapids Bd. of Adjustment and Appeals

Court of Appeals of Minnesota - September 30, 2013 - Not Reported in N.W.2d - 2013 WL 5418082

Scott Nellis owns residential property in an area of Coon Rapids designated “Low Density Residential-2” (LDR-2). The City Housing Inspector, received a call from a person known to her who reported that there was a large pile of shavings from animal cages in Nellis’s back yard. The caller described a strong and foul smell emanating from the shavings. The caller further stated that during a conversation with Nellis, Nellis said that he bred snakes and possessed about 100 snakes in his house.

Based on the Inspector’s investigation, the city obtained and executed an administrative search warrant. As they entered Nellis’s house, ammonia in the air burned their eyes and throats. One officer became physically ill after entering the house and remained ill for several days. The remaining officers wore masks for their protection during the remainder of the inspection.

During the inspection, Nellis admitted breeding, raising, and selling reptiles. He said that he owned about 100 snakes, along with other reptiles. He further stated that he raised rodents to feed the snakes. The inspection revealed roughly 300 snakes and 400 mice, along with a cat, lizards, iguanas, cockroaches, rats, and various feed insects in the maggot, pupae, or larvae stage.

Nellis challenged City’s decision affirming a citation for the keeping of non-domestic animals, in violation of Coon Rapids, Minn., City Code (CRCC) § 6-503(1) (2011), and a citation for prohibited home occupation use in violation of CRCC §§ 11-703 (2011) and 11-603(5)(a) (2011).

The Court of Appeals held that:

- Probable cause existed to support the administrative search warrant;
- The execution of the search warrant was reasonable under the Fourth Amendment;
- CRCC § 11-603(5)(a) was not unconstitutionally vague;
- The board had the authority to order Nellis to “reduce the total square footage of his home occupation in the home to be no more than 25% of the habitable square footage;
- CRCC chapter 6-500 is not unconstitutional because it does not have a grandfather clause;
- CRCC chapter 6-500 does not violate the Equal Protection Clause;
- City had a rational basis for enacting CRCC chapter 6-500; and
- The board did not act arbitrarily and capriciously in affirming the two citations against Nellis.