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MUNICIPAL ORDINANCE - ILLINOIS

Village of Roxana v. Shell Oil Company

United States District Court, S.D. Illinois - March 5, 2014 - Not Reported in F.Supp.2d - 2014 WL 860157

In response to petroleum byproduct pollution from adjacent Shell refinery, the Village of Roxana filed 230 separate complaints, each complaint representing a different Village property allegedly contaminated by Shell's pollutants in an effort to enforce Roxana Municipal Code § 8.16.010, which prohibits "leaving garbage, dirt or rubbish in public way or watercourse."

Shell asked the District Court to certify the following issues for interlocutory appeal: (1) Whether the Village of Roxana's Municipal Ordinance § 8.16.010 violation claims were preempted under Illinois law?; and (2) Whether the plain meaning of section 8.16.010, as a matter of law, encompassed Roxana's Municipal Ordinance violation claims?

As to preemption, the court concluded that the question of whether Illinois state law preempts Roxana's alleged ordinance violation was not a question of law within the meaning of section 1292(b), and thus the court denied Shell's motion for certification of order for interlocutory appeal in that respect.

The court then considered the rules of statutory construction to determine whether it was contestable that petroleum byproducts were within the scope of Roxana's ordinance. The court concluded that it was contestable that section 8.16.010 encompassed the leaking of petroleum byproducts, including benzene, into the ground. Because Shell had established that this issue was a question of law, controlling, contestable, and likely to speed up the litigation, the court will granted Shell's motion in that respect and certified the following question for interlocutory appeal: Whether the release of petroleum byproducts are "an offensive substance" within the meaning of Roxana's Municipal Code § 8.16.010?