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MUNICIPAL ORDINANCE - MICHIGAN

Bonner v. City of Brighton

Supreme Court of Michigan - April 24, 2014 - N.W.2d - 2014 WL 1640602

Landowners challenged the constitutionality of § 18-59 of the Brighton Code of Ordinances (BCO), which created a rebuttable presumption that an unsafe structure may be demolished as a public nuisance if it is determined that the cost to repair the structure would exceed 100 percent of the structure's true cash value as reflected in assessment tax rolls before the structure became unsafe.

Specifically, the issue was whether the unreasonable-to-repair presumption violated substantive and procedural due process protections by permitting demolition without affording the owner of the structure an option to repair as a matter of right.

The Supreme Court of Michigan held that BCO § 18-59 did not constitute an unconstitutional deprivation of substantive due process because the ordinance's unreasonable-to-repair presumption was reasonably related to the city of Brighton's legitimate interest in promoting the health, safety, and welfare of its citizens. Furthermore, the ordinance was not an arbitrary and unreasonable restriction on a property owner's use of his or her property because there were circumstances under which the presumption could be overcome and repairs permitted.

The court also held that the city of Brighton's existing demolition procedures provided property owners with procedural due process. Contrary to plaintiffs' argument, the prescribed procedures were not faulty for failing to include an automatic repair option. It is sufficient that aggrieved parties are provided the right to appeal an adverse decision to the city council as well as the right to subsequent judicial review. For the facial challenge to succeed, plaintiffs must show that no aggrieved property owners can meaningfully exercise their right to review or that such review is not conducted impartially. Because they have not done so, plaintiffs have failed to establish that BCO § 18-59, on its face, violates their procedural due process rights.