

Bond Case Briefs

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EMINENT DOMAIN - NEW YORK

Sherman v. Town of Chester

United States Court of Appeals, Second Circuit - May 16, 2014 - F.3d - 2014 WL 1978726

Developer brought state court action against town, asserting town prevented him from developing his land by employing a decade of unfair and repetitive procedures. Town removed the action. Subsequently, the District Court granted town's motion to dismiss. Developer appealed.

The Court of Appeals held that:

- Developer's takings claim was ripe under *Williamson County Regional Planning Commission v. Hamilton Bank*, even though town had not yet reached an official decision concerning his application for subdivision approval, and
- Developer failed to state claim based on § 1981.

Developer's takings claim against town, including that repeated zoning changes prevented him from developing his land, was ripe under *Williamson County Regional Planning Commission v. Hamilton Bank*, even though town had not yet reached an official decision concerning his application for subdivision approval, where seeking a final decision from the town would be futile because the town had used unfair and repetitive procedures for over ten years to avoid a final decision, and the town had removed the case from state court.

Developer's allegations that town discriminated against him because he was Jewish and "municipal Defendants" knew he was Jewish, that he heard town citizens express fear at a town board meeting that his proposed subdivision might become a "Hassidic Village," and that a model home was vandalized with a spray-painted swastika were insufficient to state claim against town based on § 1981, absent allegations linking town officials to the conduct and allegations that any similarly situated non-Jews were treated differently.