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Turner v. Municipal Code Violations Bureau of City of Rochester

Supreme Court, Appellate Division, Fourth Department, New York - November 21, 2014 - N.Y.S.2d - 122 A.D.3d 1376 - 2014 N.Y. Slip Op. 08156

The Rochester City Council enacted an ordinance prohibiting “outdoor storage” in all districts except specifically enumerated commercial districts. The ordinance defined “outdoor storage” as “[s]torage of any materials, merchandise, stock, supplies, machines and the like that are not kept in a structure having at least four walls and a roof, regardless of how long such materials are kept on the premises.”

Plaintiffs challenged the ordinance as unconstitutionally void for vagueness and the appeals court agreed.

The court concluded that the ordinance failed to pass either part of the vagueness test. With respect to the first part of the test, the ordinance gave ordinary people virtually no guidance on how to conduct themselves in order to comply with it. With respect to the second part of the test, the vague language of the ordinance did not provide clear standards for enforcement and, thus, a determination of whether the ordinance has been violated leaves virtually unfettered discretion in the hands of the code enforcement officer.