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ChemSol, LLC v. City of Sibley

United States District Court, N.D. Iowa, Western Division - June 4, 2019 - F.Supp.3d - 2019 WL 2357066

Limited liability companies (LLC) that owned and operated a facility used to dry biological liquids brought action against city under § 1983 and Iowa law, alleging due process violations, inverse condemnation, and tortious interference with expected business advantage, arising from city's enactment and enforcement of an odor ordinance.

City moved for summary judgment.

The District Court held that:

- LLC that transferred its ownership in the facility did not have standing to bring claims for inverse condemnation and for tortious interference with expected business advantage;
- LLC that transferred its ownership in the facility had standing to bring claims against city alleging odor ordinance was void for vagueness;
- City's odor ordinance was not unconstitutionally vague;
- City was not estopped from enforcing the ordinance against the facility;
- City's enforcement of the ordinance could not support class-of-one equal protection claim;
- City's enforcement of the odor ordinance did not violate due process;
- City did not effect a regulatory taking under the Fifth and Fourteenth Amendments by enforcing the odor ordinance; and
- Iowa's discretionary function immunity protected city from claim for tortious interference with expected business advantage.

City's odor ordinance, which made unlawful the creation of offensive or unreasonably offensive smells that were "injurious or dangerous to the health, comfort or property of individuals or the public," was sufficiently definite for due process purposes and thus was not unconstitutionally vague; the requirement that a smell be injurious or dangerous transformed the ordinance from one that could punish any smell to one that prohibited only public nuisances, the ordinance was nearly identical to Iowa's public nuisance statute, which had not been held to be unconstitutionally vague, and the terms "offensive" and "unreasonably offensive" in the public nuisance context were defined objectively under Iowa law, and so it was entirely possible to know what conduct was prohibited by the ordinance.

City did not effect a regulatory taking under the Fifth and Fourteenth Amendments by enforcing, against a facility used to dry biological liquids, the city's odor ordinance, which prohibited, as a public nuisance, the creation of offensive or unreasonably offensive smells that were injurious or dangerous to the health, comfort or property of individuals or the public.