

Bond Case Briefs

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ZONING & PLANNING - NEBRASKA

Main St Properties LLC v. City of Bellevue

Supreme Court of Nebraska - January 7, 2022 - N.W.2d - 310 Neb. 669 - 2022 WL 68163

Property owner brought action against city, seeking declaratory and injunctive relief arising from city's adoption of a rezoning ordinance that prohibited owner from parking its rental business moving vans, trucks, and trailers on the south side of its building as it had been doing pursuant to an agreement with the city.

City moved to dismiss based on lack of subject matter jurisdiction. The District Court granted the motion. Owner appealed.

The Supreme Court held that city exercised a legislative power rather than a judicial function subject to the petition-in-error process when it adopted the rezoning ordinance.

Property owner's complaint, allegations, and exhibits properly embraced within the complaint showed that when city adopted a rezoning ordinance that prohibited owner from parking or storing its rental business's moving vans, trucks, and trailers south of the north face of the building, it was exercising a legislative power subject to a collateral attack of the ordinance, rather than a judicial function for which the sole means of challenging the ordinance was to file a petition in error; owner's allegations showed that city adopted a rezoning ordinance based on the recommendation of the planning commission, not that the city council decided a dispute of adjudicative fact, and further, the city council was not statutorily required to act in a judicial manner.