

Bond Case Briefs

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EMINENT DOMAIN - MICHIGAN

Gym 24/7 Fitness, LLC v. State

Court of Appeals of Michigan - March 31, 2022 - N.W.2d - 2022 WL 982050

Gym owner filed suit against the State, alleging an unconstitutional taking of its business property by operation of the governor's executive orders issued during the COVID-19 pandemic.

The Court of Claims denied State's motion for summary disposition. Appeals were taken.

The Court of Appeals held that:

- Executive orders did not involve a physical taking;
- Executive orders did not deprive gym owner of all economically productive or beneficial use of its private property; and
- Executive orders did not constitute a regulatory taking under Penn Central.

Governor's executive orders that temporarily closed and imposed restrictions on gym owner's business during the COVID-19 pandemic did not involve a physical taking of its property, as required for gym owner to be entitled to reasonable compensation, where there was no allegation or evidence that the State physically acquired, took possession of, occupied, or appropriated the gym owner's private property.

Governor's executive orders that temporarily closed and imposed restrictions on gym owner's business during the COVID-19 pandemic did not deprive gym owner of all economically productive or beneficial use of its property, and thus, there was no regulatory taking for gym owner to be entitled to reasonable compensation; closure of fitness centers for six months was temporary and considerably short in duration, there was no allegation or evidence that gym owner suffered a total loss or the complete elimination or obliteration of value by operation of the executive orders, property clearly still had value, even if no revenue or profit was generated during the closure, and any lost value relative to real and personal property likely recovered as soon as temporary closure was lifted.

Governor's executive orders that temporarily closed and imposed restrictions on gym owner's business during the COVID-19 pandemic did not constitute a regulatory taking under Penn Central, as required for gym owner to be entitled to reasonable compensation; character of government's action of temporarily closing gym owner's business was compelling in that the aim of executive orders was to stop the spread of the COVID-19, gym owner accepted that governor's executive orders were issued solely for a public purpose, and it did not contest the prudence of the governor's actions or her authority to issue the executive orders.