Bond Case Briefs

Municipal Finance Law Since 1971

SHORT TERM RENTALS - NEW JERSEY

Nekrilov v. City of Jersey City

United States Court of Appeals, Third Circuit - August 16, 2022 - 45 F.4th - 2022 WL 3366430

Individuals who invested in and operated short-term rentals filed § 1983 action alleging that city ordinance limiting short-term rentals violated their rights under Takings, Contracts, and Due Process Clauses.

The United States District Court dismissed complaint, and plaintiffs appealed.

The Court of Appeals held that:

- Plaintiffs' forward-looking right to pursue their short-term rental businesses was not property right cognizable under Takings Clause;
- Ordinance did not result in total taking or taking per se;
- Ordinance did not effect partial taking;
- Ordinance did not violate Contracts Clause; and
- Ordinance did not violate plaintiffs' substantive due process rights.

City ordinance limiting short-term rentals did not deprive properties formerly used as short-term rentals of all economically viable use, and thus did not result in total taking or taking per se, even though individuals who invested in and operated short-term rentals could not expect same profits from long-term leases as from short-term rentals; ordinance did not entirely ban short-term rentals, and investors could still make economically viable use of properties by occupying properties or sub-leasing them on long-term basis.

City's enactment of ordinance limiting short-term rentals did not effect partial taking, even though owners and lessees of properties previously used as short-term rentals may have lost between 50% and 66% of their potential revenue, and city officials had encouraged them to invest in short-term rentals; ordinance was general zoning regulation restricting permissible uses of residential housing with goals of protecting residential housing market and promoting public safety, values of underlying properties or leases had not decreased, lost-profit claims failed to account for other potential uses of properties, prior ordinance placed qualifications on operation of short-term rentals, and amended ordinance permitted lessees to use properties for short term rentals for majority of lease term.

City had substantial public purpose in passing ordinance limiting short-term rentals, and thus ordinance did not violate Contracts Clause, even if it substantially impaired long-term leases that investors had entered into for purpose of offering short-term rentals, and mayor was subjectively motivated by his dissatisfaction with online short-term rental platform over campaign donations; city was not party to long-term leases, and ordinance articulated multiple public purposes, including desire to protect residential character of neighborhoods and reduce nuisance activity associated with short-term rentals.

City ordinance limiting short-term rentals did not violate substantive due process rights of individuals who invested in and operated short-term rentals, even if mayor was subjectively motivated by his dissatisfaction with online short-term rental platform over campaign donations; ordinance articulated several legitimate state interests furthered by change in regulation, including protecting long-term housing supply, reducing deleterious effects on neighborhoods caused by short-term rentals, and protecting residential character and density of neighborhoods.

Copyright © 2026 Bond Case Briefs | bondcasebriefs.com