

# **Bond Case Briefs**

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## **MUNICIPAL ORDINANCE - FLORIDA**

### **Florida Association of Realtors v. Orange County, Florida**

**District Court of Appeal of Florida, Fifth District - October 27, 2022 - So.3d - 2022 WL 15234476**

Real estate agents' association filed suit against county, seeking declarations that proposed rent control ordinance was unconstitutional and that ballot summary of ordinance was invalid, and seeking injunctive relief to prevent county from enforcing ordinance and to prevent county supervisor of elections from conducting or certifying referendum election on ordinance.

The Circuit Court denied association's motion for temporary injunction, but concluded that association had a substantial likelihood of succeeding in its challenges against the ordinance and summary. Association filed interlocutory appeal and county cross-appealed.

The District Court of Appeal held that:

- Association was likely to succeed on merits of its claim that ordinance was invalid;
- Association was likely to succeed on the merits of its claim that ballot summary for ordinance would mislead voters;
- Direct conflict between ordinance and statutory requirements for rent control ordinances constituted irreparable harm;
- Association had no adequate legal remedy on its claims; and
- Public interest supported issuance of temporary injunction.

Real estate agents' association was likely to succeed on merits, as element for temporary injunction, on its claim that county rent control ordinance was invalid under state constitution because it violated statute prohibiting local governments from adopting rent control ordinances without determining that controls were necessary to eliminate existing housing emergencies that constituted serious menace to general public; ordinance's legislative findings primarily referred to historical structural issues, rather than sudden or unexpected occurrence, and findings addressing more recent circumstances cited only spiraling inflation, housing prices, and rental rates.

Real estate agents' association was likely to succeed on merits, as element for temporary injunction, on its claim that proposed county rent control ordinance was invalid under state constitution because it violated statute prohibiting local governments from adopting rent control ordinances without determining that controls were necessary to eliminate existing housing emergencies that constituted serious menace to general public, even if county could prove existence of housing emergency, where county's legislative findings were virtually devoid of findings that allegedly existing housing emergency was so grave as to constitute serious menace to general public, at most citing to low rental vacancy rate and low availability of affordable housing.

Real estate agents' association was likely to succeed on merits, as element for temporary injunction, on its claim that proposed county rent control ordinance was invalid under state constitution because it violated statute prohibiting local governments from adopting rent control ordinances without determining that controls were necessary to eliminate existing housing emergencies that

constituted serious menace to general public, even if county could prove existence of housing emergency that constituted serious menace to general public, where county's legislative findings did not even suggest that ordinance would eliminate housing emergency, and consultant team that evaluated ordinance's effectiveness for county concluded that ordinance might actually hurt rental conditions in county.

Real estate agents' association was likely to succeed on the merits, as element for temporary injunction, on its claim that the ballot summary for proposed county rent control ordinance was invalid because it would mislead the voters as to the ordinance's chief purpose, where the summary only advised voters about the amount of the proposed rent control, and did not advise voters as to the frequency of allowable rent increases under the ordinance.

Direct conflict between proposed county rent control ordinance and statute setting conditions under which local governments could adopt such ordinances, which conflict rendered ordinance unconstitutional pursuant to state constitutional prohibition against ordinances inconsistent with general law, constituted irreparable harm, in and of itself, for purposes of determining whether real estate agents' association was entitled to temporary injunction, in association's action challenging validity of ordinance and its associated ballot measure.

Real estate agents' association had no adequate legal remedy, as element for temporary injunction, on its claims that proposed county rent control ordinance was invalid under state constitution because it violated statute setting conditions under which local governments could adopt such ordinances and that ballot summary for proposed county rent control ordinance was invalid because it would mislead the voters as to the ordinance's chief purpose, even if damages suffered by association and its members were quantifiable, where county was protected by sovereign immunity, and neither association nor its members could recover damages from county for harm they had and would incur.

Public interest supported issuance of temporary injunction to prevent county from enforcing proposed rent control ordinance that did not meet facial requirements of statute setting conditions under which local governments could adopt such ordinances, and did not meet facial requirements of state constitutional prohibition against ordinances inconsistent with general law.

Public interest supported issuance of temporary injunction to prevent county supervisor of elections from conducting or certifying referendum election on ordinance using ballot summary that omitted material information regarding ordinance's purpose; there was no defensible reason to determine ballot initiative was misleading, yet still have electorate vote on it, only then informing them that measure was unenforceable opinion poll all along.