

Bond Case Briefs

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MUNICIPAL ORDINANCE - NEBRASKA

REO Enterprises, LLC v. Village of Dorchester

Supreme Court of Nebraska - November 4, 2022 - N.W.2d - 312 Neb. 792 - 2022 WL 16703325

Landlord brought declaratory judgment action against village alleging that ordinance requiring landlords to guarantee payment of tenants' unpaid utility charges for services provided by village was unconstitutional special legislation and violated equal protection, the Equal Credit Opportunity Act (ECOA), and public policy.

The District Court granted landlord's motion for summary judgment on equal protection claim. Village appealed. The Supreme Court reversed and remanded. The District Court granted summary judgment for village on other claims. Landlord appealed.

The Supreme Court held that:

- Ordinance did not violate state constitutional prohibition against special legislation;
- Landlord was not an applicant for credit under ECOA;
- Ordinance was not void as against public policy; and
- Trial court did not plainly err in not entering summary judgment on issue not raised on motion for summary judgment.

Ordinance requiring landlords to guarantee payment of tenants' unpaid utility charges in order for tenants to receive utility services from village did not violate state constitutional prohibition on special legislation, even though ordinance did not require third-party guarantee for property owners applying for utility services from village; there was a substantial difference in circumstances between tenants and property owners as to time and expense that was likely necessary for village to collect unpaid utility bills.

Landlord that was required by ordinance to serve as guarantor of unpaid utility bills of its tenants in order for tenants to receive utility services from village was not an "applicant" for credit under Equal Credit Opportunity Act (ECOA), and therefore landlord could not seek equitable or declaratory relief under ECOA as to alleged invalidity of ordinance. Consumer Credit Protection Act.

Landlord that was required by ordinance to serve as guarantor of unpaid utility bills of its tenants in order for tenants to receive utility services from village, but that did not qualify as an "applicant" for credit under Equal Credit Opportunity Act (ECOA), could not obtain declaratory relief under ECOA as to validity of ordinance by naming one of its tenants as a third-party defendant, where tenant did not make an application to district court for relief.

Ordinance requiring landlords to guarantee payment of tenants' unpaid utility charges for services provided by village was not void as against public policy, even though state law capped the amount landlords could demand as a security deposit.

