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EMINENT DOMAIN - FLORIDA

D'Arcy v. Florida Gaming Control Commission

District Court of Appeal of Florida, First District - May 24, 2023 - So.3d - 2023 WL 3608904

Owner of kennel business and business brought action against state Gaming Control Commission, alleging amendment to state Constitution forbidding racing of domesticated dogs for money violated takings clauses of state and federal Constitutions.

Commission filed motion for summary judgment, which the Circuit Court granted. Owner and business appealed.

The District Court of Appeal held that:

- Plaintiffs lacked reasonable expectation that their investment in dog racing could not be severely impacted by regulation, as would support takings claim, and
- Amendment was valid exercise of police power, rather than eminent domain, as would support takings claim.

Owner of kennel business and business lacked a reasonable expectation that their investment in dog racing could not be severely impacted by regulation, as would support owner and business's claim alleging the amendment to the state Constitution forbidding the racing of domesticated dogs in connection with a wager for money or other item of value violated the takings clauses of the state and federal Constitutions; amendment did not forbid dog racing per se, and it was not reasonable that owner had no expectation of future governmental interference with his and business's property investments, as pari-mutuel gambling had long been heavily regulated in the state.

Amendment to state Constitution forbidding the racing of domesticated dogs in connection with a wager for money or other item of value was a valid exercise of police power, rather than eminent domain, as would support claim brought by owner of kennel business and business, alleging that amendment violated the takings clauses of the state and federal Constitutions; amendment prevented a public harm.

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