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MUNICIPAL ORDINANCE - ALABAMA

Dixon v. City of Auburn

Supreme Court of Alabama - October 27, 2023 - So.3d - 2023 WL 7096600

Owner of residential property brought action against city's mayor, in his official capacity, and city council member who served as mayor pro tempore, also in her official capacity, and asserted claim that city's zoning ordinance that expressly regulated short-term rentals of residential property and that, due to the neighborhood-conservation zoning district where owner's property was located, prohibited owner from renting out the property on a short-term basis, violated his right to due process and also violated his right to equal protection as guaranteed by the Alabama Constitution.

The Circuit Court entered summary judgment for defendants. Property owner appealed.

The Supreme Court held that:

- Owner did not have a pre-existing, lawfully established right to the nonconforming use of home's basement for short-term rentals;
- In the absence of more than the conclusory and generalized arguments made by owner, ordinance did not violate whatever equal-protection rights owner had under the Alabama Constitution; and
- City was not equitably estopped from enforcing ordinance against owner.

Homeowner did not have a pre-existing, lawfully established right to the nonconforming use of home's basement for short-term rentals, and thus city's zoning ordinance that expressly regulated short-term rentals of residential property and that, due to the neighborhood-conservation zoning district where owner's property was located, prohibited owner from renting out the property on a short-term basis, did not violate owner's due-process rights under the Alabama Constitution; the plain language of the city's zoning ordinance had, at all relevant times, presumptively prohibited those uses not specifically enumerated as permitted in neighborhood-conservation districts, and short-term rentals had never been listed as a permitted use in such districts.

In the absence of more than the conclusory and generalized arguments made by owner of residential property, city's zoning ordinance that expressly regulated short-term rentals of residential property and that, due to the neighborhood-conservation zoning district where owner's property was located, prohibited owner from renting out the property on a short-term basis, did not violate whatever equal-protection rights owner had under the Alabama Constitution.

City was not equitably estopped from enforcing against residential property owner its ordinance that expressly regulated short-term rentals of residential property and that, due to the neighborhood-conservation zoning district where owner's property was located, prohibited owner from renting out the property on a short-term basis; despite arguments that city did not enforce its previous zoning ordinance against owner's short-term rentals and that city had been collecting lodging taxes on short-term rentals pursuant to an agreement that city had with online marketplace used by owner, equitable estoppel was not a bar to the correction of a mistake of law, and the agreement provided that it did not constitute a waiver by city of any other provisions of law to a particular short-term rental operator.

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