

Bond Case Briefs

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EMINENT DOMAIN - MINNESOTA

Fletcher Properties, Inc. v. City of Minneapolis

Court of Appeals of Minnesota - January 16, 2024 - N.W.3d - 2024 WL 157770

Landlords brought action challenging city ordinance aimed at preventing housing discrimination based on public assistance, alleging that ordinance violated the Takings Clause of the state's constitution and was preempted by state law.

The District Court granted summary judgment to landlord, and entered permanent injunction against enforcement of the ordinance, 2018 WL 9364046. City appealed. The Court of Appeals reversed and remanded, and the Supreme Court affirmed. On remand, the District Court dissolved the permanent injunction, granted city's motion for summary judgment, denied landlord's motion for summary judgment, and granted motions for leave to submit amici briefs. Landlord appealed.

The Court of Appeals held that:

- Ordinance did not constitute a per se physical taking in all applications;
- Ordinance did not constitute a regulatory taking;
- Ordinance was not barred by conflict preemption;
- Ordinance was not barred by field preemption; and
- Trial court did not abuse its discretion by granting amici leave to participate.

On its face, city ordinance addressing housing discrimination based on public assistance did not appropriate private property or a landlord's right to exclude others from private property, and therefore did not constitute a per se physical taking in all applications; instead, ordinance imposed restrictions on how landlords, having chosen to let their premises, may do so.

Housing-quality-standards inspections imposed on landlords for each lease renewal under city ordinance aimed at preventing housing discrimination based on public assistance was not, on its face, type of property appropriation giving rise to per se physical taking in every application in violation of Takings Clause in state's constitution; it was lawful for government to require property owners to cede right of access as condition of receiving certain benefits without causing a taking.

Record did not establish that in every instance a negative impact would occur and thus, landlord did not carry its burden for establishing that city ordinance that made it unlawful to discriminate based on tenant's receipt of public assistance constituted a regulatory taking under state constitution's Takings Clause, where ordinance included an procedure by which a landlord could be excepted from letting to a tenant for economic reasons and assert an undue-hardship defense to a discrimination claim, and two impact studies concluded that degree of impact that ordinance would have on operating expenses would vary depending on the specific property.

City ordinance aimed at housing discrimination based on public assistance, which required landlords to participate in federal housing choice voucher program, did not interfere with landlord's investment-backed expectations as would satisfy element of landlord's regulatory takings claim under the state constitution; although landlords were not required to participate in voucher program

before enactment of the ordinance, the ordinance did not alter the ability to rent property, which was primary expectation regarding the property.

Requirement of city ordinance which made it unlawful for landlords to discriminate based on a tenant's receipt of public assistance, that Minnesota Public Housing Authority (MPHA) had to consent to sale of landlord's property subject to housing-assistance payment (HAP) contract between MPHA and landlord, did not necessarily amount to interference with investment-backed expectations as would satisfy element of landlord's regulatory takings claim under state constitution; although landlord argued that the requirement imposed burdens on its ability to dispose of its property, landlord cited no authority concluding that such burden established a regulatory taking in all applications, since HAP contract also limited circumstances in which MPHA may reject a proposed sale.

City ordinance that made it unlawful for landlords to discriminate based on a tenant's receipt of public assistance, including federal housing assistance vouchers, did not forbid what state's anti-discrimination statute expressly permitted as would render ordinance subject to conflict preemption; although anti-discrimination statute did not require participation in housing voucher program, it did not grant right not to participate in the program, and so there was no irreconcilable conflict by requiring landlords to accept housing vouchers and state law based on implied statutory permission.

City ordinance addressing housing discrimination based on public assistance, by permitting tenants to make claims of unlawful discrimination based on a landlord's refusal to let to them because of tenants' participation in federal housing assistance voucher program, did not permit action that was forbidden by state's anti-discrimination statute as would render ordinance subject to conflict preemption; while express purpose of state statute included protecting all persons from wholly unfounded charges of discrimination, a claim that a landlord was motivated not to rent to a person based on requirements of a public-assistance program was not necessarily a wholly unfounded claim of discrimination under anti-discrimination statute.

City ordinance addressing housing discrimination based on public assistance, by allegedly expanding list of prohibited reasons for refusing to rent property set forth in state's anti-discrimination statute, did not frustrate purposes of state law as would render it subject to conflict preemption; ordinance was merely complementary to the anti-discrimination statute and provided landlords with an affirmative defense for undue hardship.