

Bond Case Briefs

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EMINENT DOMAIN - TEXAS

Rhone v. City of Texas City, Texas

United States Court of Appeals, Fifth Circuit - February 14, 2024 - F.4th - 2024 WL 617246

Owner of three apartment buildings in city brought appeal, in state district court, from order of nuisance abatement issued by a Municipal Court of Record, asserting claims under § 1983 for inverse condemnation, denial of procedural due process, and unconstitutional seizure, and seeking declaratory judgment.

After removal by city, the United States District Court granted summary judgment to city on due process claim, and later granted summary judgment to city on remaining claims. Owner appealed and filed motion to restrain and enjoin damage to or demolition of buildings. The Court of Appeals denied the motion without prejudice, and buildings were demolished by city during pendency of appeal.

The Court of Appeals held that:

- Owner satisfied requirement for exception to mootness, for issues capable of repetition yet evading review, that duration of challenges, to Municipal Court of Record's nuisance finding and court's constitutionality, was too short for complete judicial review and sufficient relief;
- Theoretical possibility of future procedural due process and seizure violations did not support exception to mootness;
- Appeal was not moot as to takings claim; and
- City's imposition of compliance costs for repairing conditions at apartment buildings did not violate doctrine of unconstitutional conditions.