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MUNICIPAL CORPORATIONS - TEXAS

Rhone v. City of Texas City, Texas

United States Court of Appeals, Fifth Circuit - August 6, 2024 - F.4th - 2024 WL 3664535

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 for the Southern District of Texas 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 ordered limited remand. On remand, the District Court conducted evidentiary hearing on city attorney's role in finalizing the Municipal Court's order of abatement and the effect of his role on the validity of that order.

The Court of Appeals held that city attorney's typed signature under phrase "approved as to form, substance, and entry" was formulaic way of explaining city attorney's acceptance of order.

Language in Texas municipal court's nuisance abatement order with city attorney's typed signature under phrase "approved as to form, substance, and entry" was formulaic way of explaining city attorney's acceptance of order, and the city attorney's and municipal judge's actions were therefore appropriate in apartment building owner's suit challenging abatement order; municipal judge did not need city attorney's approval before entering the order.