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EMINENT DOMAIN - FEDERAL

Anaheim Gardens v. United States

United States Court of Federal Claims - September 5, 2025 - Fed.Cl. - 2025 WL 2573359

Owners of low-income housing projects brought consolidated actions against the United States Department of Housing and Urban Development (HUD), alleging that enactment of Emergency Low Income Housing Preservation Act (ELIHPA) and Low-Income Housing Preservation and Resident Homeownership Act (LIHPRHA) constituted temporary regulatory takings under Fifth Amendment in that they prevented owners from exercising their contractual right to prepay government-insured mortgages on their respective housing projects, to terminate government rent restrictions.

The Court of Federal Claims granted summary judgment in favor of government. Property owners appealed. The Court of Appeals affirmed in part, vacated in part, and remanded.

On remand, the Court of Federal Claims held that:

- Owner did not establish that expectation to prepay its mortgage and convert to market rate rentals after 20 years was primary or “but for” reason for its investment;
- Other owner established that expectation to prepay its mortgage and convert to market rate rentals after 20 years was primary or “but for” reason for its investment;
- Expectation of owner to prepay its mortgage and convert to market rate rentals after 20 years was objectively reasonable in view of industry practice as whole;
- Expectation of owner to prepay its mortgage and convert to market rate rentals after 20 years was objectively reasonable in view of testimony from former employees of Department of Housing and Urban Development (HUD) supporting owner’s expectation and language used on owner’s secured note;
- Testimony from certified public accountant (CPA), determining that early tax benefits were more valuable than hypothetical residual 20 years later, did not refute objectively reasonable expectation of owner;
- District court could not credit economic loss calculation of owners’ primary expert who died prior to court’s decision, as adopted and promulgated by secondary financial analyst;
- Methodology of government’s expert for calculating economic loss was consistent, replicable, and reliable, and therefore admissible; and
- Economic impact of LIHPRHA on owners of between 5.9% and 27.4% did not constitute temporary regulatory taking.

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