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EMINENT DOMAIN - NEW YORK

Coalition for Fairness in SoHo and NoHo, Inc. v. City of New York

Court of Appeals of New York - January 13, 2026 - N.E.3d - 2026 WL 88133 - 2026 N.Y. Slip Op. 00076

Occupants of certain buildings designated as “Joint Living-Work Quarters for Artists” (JLWQA) brought combined article 78 and declaratory-judgment action against city, city’s department of city planning and planning commission, city council, and, in his official capacity, mayor to challenge rezoning plan provision that, in alleged violation the Takings Clause of the Fifth Amendment, allowed occupants to convert their JLWQA units to unrestricted residential use if they paid a one-time fee to an arts fund.

The Supreme Court dismissed petition. Owners and residents appealed. The Supreme Court, Appellate Division, reversed, declared fee unconstitutional, and enjoined its enforcement. Defendants appealed as of right on constitutional grounds.

The Court of Appeals held that fee was not an unconstitutional condition under the Takings Clause.

One-time arts-fund fee that, pursuant to provision of city’s rezoning plan, occupants of certain buildings designated as “Joint Living-Work Quarters for Artists” (JLWQA) had to pay if they wished to convert their JLWQA units to unrestricted residential use would not have constituted a compensable “taking” if it had been imposed directly, and thus fee was not an “unconstitutional condition” under the Takings Clause; all that was being taken was money, rather than the transfer of any interest in occupants’ real property, the fee was not requested in lieu of any such transfer, and it was not commandeered from any specific bank account.

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