

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Shelter Creek Development Corporation; Leo A. O'Hearn; Margaret E. O'Hearn v. City of Oxnard

838 F.2d 375 (9th Cir. 1988) · No. No. 86-6608 · Decided February 2, 1988

SUMMARY

The Ninth Circuit held that plaintiffs' constitutional challenge to Oxnard Ordinance No. 1805 was not ripe because they had not applied for a variance or special use permit, and the City had therefore made no final, authoritative determination regarding the ordinance's application to their property. The court vacated the district court's judgment on the merits and remanded with directions to dismiss the action. The court explained that federal ripeness requirements were not altered by the California Supreme Court's state-law determination that the ordinance did not apply to the property.

CASE DETAILS

COURT	United States Court of Appeals for the Ninth Circuit
WRITING FOR THE COURT	Alarcon, Circuit Judge; Nelson, Circuit Judge; Carl A. Muecke, District Judge, sitting by designation
JURISDICTION	Federal
DECIDED	February 2, 1988
DOCKET	No. 86-6608
DISPOSITION	vacated
PROCEDURAL POSTURE	Plaintiffs appealed from a judgment entered for the City after a bench trial in their 42 U.S.C. § 1983 action challenging the constitutionality of a municipal land-use ordinance as applied to their property.
STANDARD OF REVIEW	Ripeness and subject-matter jurisdiction are reviewed de novo.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Shelter Creek Development Corporation, Leo A. O'Hearn, Margaret E. O'Hearn v. City of Oxnard

TOPICS

- ripeness
- appellate procedure
- section 1983
- municipal law
- real estate

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the plaintiffs' facial and as-applied constitutional challenges to Ordinance No. 1805 were ripe for federal judicial adjudication when they had not applied for a special-use permit or variance.
2. Whether the California Supreme Court's state-law determination that the property was exempt from the ordinance eliminated the federal ripeness requirement.

HOLDINGS

1. A landowner's constitutional challenge to the application of a land-use ordinance is not ripe until the appropriate local administrative body has issued a final and authoritative determination regarding the type and intensity of development permitted on the property, ordinarily after the landowner submits a meaningful development application and seeks a variance or special-use permit when available.
2. A state court's determination that a land-use ordinance is inapplicable under state law does not eliminate the separate federal ripeness requirement for a federal constitutional challenge to the ordinance's application.

KEY QUOTATIONS

“A landowner, therefore, can be required to seek a variance from the terms of the challenged ordinance before instituting a section 1983 action attacking application of that ordinance.” (¶ 17)

“This federal requirement of ripeness cannot be altered or abrogated by a decision of a state court construing its own laws.” (¶ 29)

FACTUAL BACKGROUND

The O'Hearns purchased the Shelter Creek apartment complex and formed Shelter Creek Development Corporation to convert the apartments into a stock cooperative. Oxnard enacted Ordinance No. 1805 requiring converted units to comply substantially with building and parking restrictions applicable to new condominiums. Although the plaintiffs believed the ordinance did not apply because of a state-law grandfather clause, they never applied for a special-use permit or formally requested a variance before bringing the federal constitutional challenge. The City therefore never made a final and authoritative determination about how the ordinance applied to the proposed conversion.

PROCEDURAL HISTORY

The plaintiffs first challenged Ordinance No. 1805 in California state court, and the California Supreme Court held that the property was exempt under a grandfather clause in the California Subdivision Map Act but declined to decide the ordinance's constitutionality. Plaintiffs then filed this federal § 1983 action alleging equal protection and due process violations. After a bench trial, the United States District Court for the Central District of California entered judgment for the City. The Ninth Circuit held that the federal constitutional claims were unripe, vacated the merits judgment, and remanded with directions to dismiss.

DISPOSITION

vacated

REMAND INSTRUCTIONS

Vacate the district court's judgment on the merits and remand with directions that the constitutional challenge be dismissed for lack of ripeness and subject-matter jurisdiction.

CASES CITED

- Duke City Lumber Co. v. Butz, 539 F.2d 220 (D.C. Cir. 1976)
- Peter Starr Production Co. v. Twin Continental Films, Inc., 783 F.2d 1440 (9th Cir. 1986)
- Agins v. City of Tiburon, 447 U.S. 255 (1980)
- MacDonald, Sommer & Frates v. Yolo County, 477 U.S. 340 (1986)
- Hodel v. Virginia Surface Mining & Reclamation Ass'n, 452 U.S. 264 (1981)
- Williamson County Regional Planning Commission v. Hamilton Bank, 473 U.S. 172 (1985)
- Patsy v. Board of Regents, 457 U.S. 496 (1982)
- Kinzli v. City of Santa Cruz, 818 F.2d 1449 (9th Cir. 1987)
- Martino v. Santa Clara Valley Water District, 703 F.2d 1141 (9th Cir. 1983)
- Lake Nacimiento Ranch Co. v. County of San Luis Obispo, 830 F.2d 977 (9th Cir. 1987)
- Norco Construction, Inc. v. King County, 801 F.2d 1143 (9th Cir. 1986)
- Herrington v. County of Sonoma, 834 F.2d 1488 (9th Cir. 1987)

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