

UNITED STATES COURT OF APPEALS, ELEVENTH CIRCUIT

Elling O. Eide v. Sarasota County

Elling O. Eide v. Sarasota County, 895 F.2d 1326 (11th Cir. 1990) · No. No. 88-3700 · Decided March 8, 1990

SUMMARY

The Eleventh Circuit held that a landowner's §1983 substantive due process and equal protection claims challenging a county's sector plan as unconstitutional were not ripe because the landowner had not submitted a development plan or rezoning petition, and the county had not made a final decision on the extent of permitted development. The court rejected the futility exception, finding that at least one meaningful application was required before the exception could apply, and that the county had not unambiguously foreclosed commercial zoning or a comprehensive plan amendment. The case was reversed and remanded with instructions to dismiss the claims as unripe.

CASE DETAILS

COURT	United States Court of Appeals, Eleventh Circuit
WRITING FOR THE COURT	Anderson; Cox; Shoob
JURISDICTION	Federal
DECIDED	March 8, 1990
DOCKET	No. 88-3700
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from the United States District Court for the Middle District of Florida.
PRECEDENTIAL VALUE	Published
PARTIES	Sarasota County v. Elling O. Eide

TOPICS

- civil procedure
- constitutional law
- appellate procedure
- real estate

PRACTICE AREAS

- Land Use
- Constitutional Law
- Civil Rights

QUESTIONS PRESENTED

1. Whether a landowner's equal protection and substantive due process claims regarding a county's zoning decision are ripe for adjudication when the landowner has not submitted a development plan or petitioned for rezoning and the county has not made a final decision on the application of the regulation to the property.

HOLDINGS

1. The claims are not ripe because the landowner has not obtained a final decision from the county regarding the application of the zoning regulations to his property.

KEY QUOTATIONS

“Our cases uniformly reflect an insistence on knowing the nature and extent of permitted development before adjudicating the constitutionality of the regulations that purport to limit it.” (at 10)

“A court cannot determine whether a regulation has gone 'too far' unless it knows how far the regulation goes.” (at 10)

“The so-called 'futility exception' to the final decision requirement does excuse the repeated submission of development plans where the submission would be futile.” (at 14)

“Until at least one meaningful application has been submitted for the local authority's review and application of the zoning regulations, futility is not established and a constitutional challenge to local zoning may not be entertained.” (at 14)

FACTUAL BACKGROUND

Elling Eide owns two parcels of land in Sarasota County designated for residential use under the county's comprehensive plan (Apoxsee) and a subsequent sector plan. Eide sought commercial zoning but did not submit a formal rezoning petition or development plan for either parcel. The sector plan recommended continued residential zoning for his properties, but the plan also allowed for future amendments to the comprehensive plan. Eide then filed a Section 1983 suit alleging equal protection and substantive due process violations.

PROCEDURAL HISTORY

The district court rejected the ripeness defense and after a jury trial awarded \$850,000 to Eide and ordered the County to grant commercial zoning. The County appealed.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case is remanded for further proceedings not inconsistent with this opinion, with instructions to dismiss the Section 1983 claims as not ripe.

CASES CITED

- Machado v. Musgrove, 519 So.2d 629 (Fla. 3d DCA 1987)
- Williamson County Regional Planning Comm'n v. Hamilton Bank, 473 U.S. 172 (1985)
- Greenbriar, Ltd. v. City of Alabaster, 881 F.2d 1570 (11th Cir. 1989)
- St. Clair v. City of Chico, 880 F.2d 199 (9th Cir. 1989)
- Unity Ventures v. Lake County, 841 F.2d 770 (7th Cir. 1988)
- Duke City Lumber Co. v. Butz, 539 F.2d 220 (D.C. Cir. 1976)
- MacDonald, Sommer & Frates v. Yolo County, 477 U.S. 340 (1986)
- Agins v. Tiburon, 447 U.S. 255 (1980)
- Shelter Creek Dev. Corp. v. City of Oxnard, 838 F.2d 375 (9th Cir. 1988)
- Kinzli v. City of Santa Cruz, 818 F.2d 1449 (9th Cir. 1987)
- Austin v. City and County of Honolulu, 840 F.2d 678 (9th Cir. 1988)
- Lake Nacimiento Ranch Co. v. County of San Luis Obispo, 830 F.2d 977 (9th Cir. 1987)
- Herrington v. Sonoma County, 834 F.2d 1488 (9th Cir. 1987), as amended, 857 F.2d 567 (9th Cir. 1988)
- Martino v. Santa Clara Valley Water Dist., 703 F.2d 1141 (9th Cir. 1983)
- Southwest Ranches Homeowners Ass'n v. Broward County, 502 So.2d 931 (Fla. 4th DCA 1987)
- Machado v. Musgrove, 519 So.2d 629 (Fla. 3d DCA 1987), adopted en banc, review denied, 529 So.2d 693 (Fla. 1988)
- Hoehne v. County of San Benito, 870 F.2d 529 (9th Cir. 1989)
- Anthony v. Franklin County, 799 F.2d 681 (11th Cir. 1986)

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