

*Mohit v. City of Haines City, No. 8:18-cv-1775-T-33JSS, 2020 WL 2331177
(M.D. Fla. May 11, 2020)*

Middle District of Florida Holds that Land Development Regulations Did Not Cause a Complete Taking Because the Regulations Did Not Deprive the Property of All Beneficial Uses

In 2012, Mohit (“the Plaintiff”) purchased property located in a residentially zoned area with the intent to use it as a farm. In 2013, Haines City (“the City”) issued an approval for the property to be used for commercial agriculture purposes—specifically only for hay crop production and horses. The following year, the property owner sought to add livestock to his farm, but the City required that the owner obtain a permit for this new use. The Plaintiff disagreed with the City’s permit requirement and brought suit in 2014 claiming that the City’s Land Development Regulations (“LDRs”) wrongfully prohibited him from using the property for agricultural purposes. The Court ordered the Plaintiff to submit an application for a conditional use permit to expand the permitted uses on his property. The Plaintiff submitted the application requesting, in addition to hay crop and horses, the following uses: “livestock and companion animals; associated buildings and water well and fences; ... timber; horticulture; [and] plant nursery.” More specifically, the Plaintiff provided an estimation for the number of animals he planned to have on the property, stating “estimated number of animals: cattle (20) twenty, on a rotational basis; goats (20) twenty; [and] horses (5) five. Excluding swine; feed lot operation.” The City approved the conditional use permit fully and required the Plaintiff to reapply in ten years for another permit.

Soon after the approval of the conditional use permit, the Plaintiff sued again claiming that the LDRs and the conditional use permit violated his property rights under several Florida statutes—including the Right to Farm Act (“RTFA”) and the Florida Agricultural Lands and Practices Act (“FALPA”)—as well as a claim that the LDR and permit requirements constituted a taking under the Fifth Amendment. The Court dismissed the takings claims and granted summary judgment regarding the state law claims under the RTFA and the FALPA, finding that the requirement of a permit did not outright prohibit agricultural uses on the Plaintiff’s property. Eventually the Court dismissed all claims under this second lawsuit. In 2018, the Plaintiff filed another lawsuit, claiming that the City’s LDRs were unlawful under Florida law by prohibiting agricultural activities under Florida’s “Greenbelt Law.” The Court granted summary judgment to the City in this case.

Finally, the Plaintiff filed suit in federal court claiming that the City’s LDRs and permit requirement: (1) constituted a taking under the Fifth Amendment; (2) were in violation of due process and equal protection clauses under the Fourteenth Amendment; and (3) violated the Fair Housing Act. The Court dismissed counts II and III. On review for summary judgment, the Court examined whether the LDRs and permit constituted a taking by the government. First, the Court analyzed whether this was a “complete taking”—in other words, whether the LDRs and permit deprived the property of all economically beneficial uses. The Court answered in the

negative, reasoning that the conditional use permit granted by the City several beneficial uses of the property. While the uses may not meet the ideal uses that the Plaintiff wanted for the property, the approved uses mean that there was not a complete taking.

Second, the Court moved on to determine if there was a taking based on the following three factors: “(1) the economic impact of the regulation on the claimant; (2) the extent to which the regulation has interfered with distinct investment-backed expectations; and (3) the character of the governmental action.” First, the Court reasoned that the Plaintiff’s expectations were met when the City approved the land originally for hay crop and horses, and again when the conditional use permit was issued giving the Plaintiff “exactly what he requested.” Thus, the first two factors both favor the City. The Court then proceeded to analyze the character of the City’s action. The Court compared a physical invasion by the government, which was a strong sign of a taking, to zoning laws, which are often viewed as “permissible governmental action” even when a property’s uses are limited by zoning requirements. With this in mind, the Court ruled in favor of the City, holding that the LDRs did not constitute either a complete taking or a deprivation of all beneficial uses of the property. The Plaintiff has since filed a notice of appeal with the 11th Circuit to have this decision reviewed.