

PATEL V. HOLBROOK BACKGROUNDER

Executive Summary

Anil Patel is a property owner in the city of Holbrook, Arizona. His property is currently a Howard Johnson motel. In December 2022, he planned to sell his property to a buyer who desired the property's available uses in that commercial zone. But the city of Holbrook interfered when it enacted a new ordinance that removed an existing property use for the hotel. The ordinance was passed by the city council in order to restrict what businesses can operate in Holbrook. This left Anil without a buyer, and the value of his property decreased.

Arizona's Private Property Rights Protection Act (also known as Prop 207) was enacted to ensure that property owners are fairly compensated when government regulations decrease the value of private property. Under Prop 207, if a property owner's right to use their land is restricted by a land use law, and that reduces the fair market value of the property, owners are entitled to just compensation.

That is why the Goldwater Institute filed a lawsuit against the city of Holbrook demanding the just compensation Anil is entitled to for the city's restriction of his property rights.

Background

Anil Patel, through Holbrook Motel Investments, Inc., owns a Howard Johnson motel located just off Interstate 40 in Holbrook, Navajo County, Arizona. In December 2022, the property was zoned C-2 General Commercial Zone, which included the principal permitted uses of a hotel, inn, or motel. The C-2 zone permitted principal uses of a C-1 Commercial Zone, which included Residential Care Service—in-home care services for disabled and senior citizens.

In December 2022, Anil accepted an offer to sell his property to a buyer who planned to use the property for Residential Care Service. During the due diligence phase for the sale of the property, the City Planning and Zoning Administrator confirmed that a conditional use permit was not required for the buyer's intended purpose. In reliance on the City's guidance, the parties proceeded with the sale of the property, setting a closing date for the end of February 2023.

On February 23, 2023, the Holbrook city council held an initial reading and discussion of Ordinance 23-02, proposed by the City Planning and Zoning Administrator. Ordinance 23-02 modified the relevant provisions of the C-1 and C-2 commercial zones to remove Residential Care Services as a principal permitted use. Residential Care Service became a conditional use with a requirement for a conditional use permit. At the city council meeting, the members discussed whether the ordinance would have any effect on the pending sale of the property and Mayor Kathleen Smith stated, "[t]his [ordinance] keeps our commercial property again, where we have a little more control of who's coming in."

Ordinance 23-02 was passed, and the pending sale of the property was delayed as a result. The buyer filed for a conditional use permit, but it was denied. The subsequent appeal to the city council was also denied. With this restriction on the property's use, the sale was not completed, and the property's value was diminished.

Legal Analysis

The Arizona Private Property Rights Protection Act provides that “[i]f the existing rights to use, divide, sell or possess private real property are reduced by the enactment or applicability of any land use law . . . and such action reduces the fair market value of the property the owner is entitled to just compensation from . . . the political subdivision of this state that enacted the land use law.” A.R.S. § 12-1134. Meaning, a property owner is entitled to compensation when a city enacts a land use law that reduces existing rights to use property, and thereby reduces the fair market value of the property.

A land use law can be any statute, rule, ordinance, resolution or law that regulates the use or division of land, or any interest in land. A.R.S. § 12-1136(3). Ordinance 23-02 removed a previously existing property right (the right to use the property for a Residential Care Service) and reduced that right by now requiring a conditional use permit. The passage of the ordinance reduced the value of Anil’s property, and stalled the sale of it based on a use Anil previously enjoyed.

The fair market value is the price that a property would sell for in the open market. A.R.S. § 12-1136(1). When a land use law reduces the property’s fair market value, the property owner may submit a written demand for a specific amount of just compensation. A.R.S. § 12-1134(E). Ordinance 23-02 reduced the fair market value of the property. Anil made a demand to the city of Holbrook for compensation for the difference in value before and after the enactment of Ordinance 23-02. The city declined to respond to the demand. Under the Private Property Rights Protection Act, Anil is now entitled to seek just compensation for the enactment of Ordinance 23-02 in court.

Case Logistics

The case is *Patel v. City of Holbrook*. The complaint was filed on January 31, 2024, in Navajo County Superior Court.

The Legal Team

Stacy Skankey is a Staff Attorney at the Goldwater Institute’s Scharf-Norton Center for Constitutional Litigation, where she litigates in areas of property rights, government transparency, free speech, economic liberty, and regulatory reform.

Timothy Sandefur is the Vice President for Legal Affairs at the Goldwater Institute’s Scharf-Norton Center for Constitutional Litigation and holds the Duncan Chair in Constitutional Government. He litigates to promote economic liberty, private property rights, free speech, and other crucial values in states across the country.

Jon Riches is the Vice President for Litigation for the Goldwater Institute’s Scharf-Norton Center for Constitutional Litigation and General Counsel for the Institute. He litigates in federal and state trial and appellate courts in the areas of economic liberty, regulatory reform, free speech, taxpayer protections, public labor issues, government transparency, and school choice, among others. Jon has litigated cases in multiple state and federal trial and appellate courts.