Legislative Immunity: Denial of Zoning Amendment for Islamic Center is Legislative Action, Not Administrative

American Islamic Center v. City of Des Plaines, No. 13-C-6594 (N.D. Ill. 2014)

In a case demonstrating the importance to local government of distinguishing legislative activity from administrative or executive actions, the District Court for the Northern District of Illinois has held that city council members' denial of an Islamic organization's application to rezone a property was a legislative act, giving them immunity against charges that the decision was discriminatory.

The American Islamic Center (AIC) provides religious and education services to the Muslim community at various facilities in the Chicago metropolitan area. The AIC has been searching for a permanent facility of its own to conduct these activities, and it had contracted to buy certain property currently zoned for manufacturing on the condition that Des Plaines would adopt a zoning map amendment that would allow AIC to use the property for religious and educational activities. AIC proposed such an amendment to the Des Plaines Zoning Map Administrator, and the Plan Commission held a public hearing on AIC's proposal. The Plan Commission found that the proposed amendment would neither significantly harm traffic and parking patterns nor require the expansion of public facilities, and subsequently recommended that the city council adopt the AIC's proposed zoning amendment. The city council voted five to three against approval, and the five city council members who voted "no" were named as defendants, as well as the City of Des Plaines. AIC brought a seven count complaint alleging that Des Plaines violated the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA) and the Illinois Religious Freedom Restoration Act, and that that all defendants violated the U.S. Constitution's Free Exercise Clause and Equal Protection Clauses.

HELD: The District Court granted a motion to dismiss all claims against the council members in their individual capacities, and otherwise denied the defendant City's motion to dismiss, directing the City of Des Plaines to answer all remaining claims. The City Council members were entitled to absolute legislative immunity because the city council's actions were properly characterized as legislative, not executive or administrative.

DISCUSSION: The AIC argued that the City Council members are ineligible for legislative immunity because their denial of the zoning amendment constituted an administrative rather than a legislative function. The court explained that it took a "functional approach," looking to the function that the council members were performing when they denied the proposal. Even though the proposed zoning amendment would effectively determine the use of a single property by one religious organization, the court found that the impact of the denial was broad enough classify the council's action as legislative. The court explained:

There is no question that the denial of the proposed zoning amendment had its most direct and immediate impact on AIC. It also affected the property's owner, who lost the opportunity to sell the property to AIC. In addition, the property that AIC wished to buy will remain zoned for manufacturing activity regardless of who comes to own it, unless and until the city council amends the zoning map. For these reasons, the city council's actions are properly characterized as legislative, not executive or administrative. When the council denied the zoning amendment and passed the later resolution rejecting the amendment, it was engaging in legislative acts.

Although it is unclear whether this decision will be appealed, the case highlights the importance of the crucial distinction between legislative and administrative or executive actions when raising immunity. The court's determination that the councilmembers' decision was a legislative matter reveals that merely because an action impacts a single property it may nevertheless have a broader legislative character.

http://www.scribd.com/doc/214332626/American-Islamic-Ctr-v-City-of-Des-Plaines (last accessed Apr. 3, 2014).

Public Records: E-mails and Text Messages to or from Public Officials on Private Electronic Devices and Personal Accounts Are Not Public Records

City of San Jose v. Superior Court, No. H039498 (Cal. Ct. App. Mar. 27, 2014)

Note: This summary has been adapted from a posting originally provided by Ruthann Ziegler and Nicholaus Norvell of the San Francisco office of IMLA member Meyers Nave LLC.

A California Court of Appeal has held that when officers and employees of a public agency use private accounts and personal electronic devices to send or receive messages, the messages do not qualify as "public records" under the California Public Records Act (CPRA), even when the messages concern public agency business.
In 2009, Ted Smith filed a request with the City of San Jose seeking public records related to downtown redevelopment. The request sought several categories of records, including "voicemails, emails or text messages sent or received on private electronic devices" used by the Mayor and Council members. When the City objected to this aspect of the request, Smith sought a court order for disclosure of the messages under the CPRA.

Smith argued that unless private messages related to the public agency are made available under the CPRA, public officials could avoid public scrutiny while conducting