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Short-Term Rental Bans Are Back in the Takings Spotlight

The U. S. District Court for the North District of Illinois recently enjoined the Village of Glen Ellyn from enforcing its short-term rental ban. The court granted a request for a temporary restraining order, which demonstrates the potential takings vulnerabilities attached to local short-term rental bans.[\[1\]](#)

Investment Property Behind Short-Term Rental Ban

In what has become an investment opportunity for many individuals across the country, the plaintiff in this case created an LLC and purchased a home with the sole intent of renting the home as a short-term rental property via commercial internet rental sites.

When the plaintiff purchased the home, it was in an unincorporated area with little-to-no zoning restrictions and no ban on short-term rentals. According to the testimony before the court, the plaintiff, thus, had an expectation that he could use this house for short-term rentals for the foreseeable future. And according to the plaintiff, his short-term rental became a success.

But the area was later annexed into the Village of Glen Ellyn. Soon thereafter, Glen Ellyn began receiving complaints. Like many disputes regarding short-term rental properties, this dispute began with frustrated neighbors complaining that the plaintiff's rental guests were too noisy.

In response to several complaints from one of the neighbors, Glen Ellyn first cited the plaintiff for an array of zoning and nuisance violations and ultimately enacted an ordinance banning short-term rental properties in the village.

Facing what the plaintiff described as substantial loss, it sued the Village.

Short-Term Rental Property Ban Might Be a *Penn Central* Taking

The plaintiff sued in the U.S. District Court for the Northern District of Illinois, alleging that the ordinance banning short-term rentals constitutes a *Penn Central* regulatory taking. With the suit, the plaintiff sought a temporary restraining order to prevent the ordinance from taking effect.

Under the Takings Clause of the U.S. Constitution, the U.S. Supreme Court has held that “when a regulation impedes the use of property without depriving the owner of all economically beneficial use, a taking still may be found” based on several factors, “including (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.”^[2] This is known as a “*Penn Central* taking” or a “regulatory taking.”

In *Blakelick Properties, LLC v. Village of Glen Ellyn*, the court employed that three-factor test and determined that the plaintiff was likely to succeed on the merits of the *Penn Central* regulatory taking claim, which justified temporary relief. The court focused on the economic impact on the plaintiff as well as the plaintiff’s investment-backed expectations. For the former, the court accepted the plaintiff’s assertion that not having the ability to rent the property on a short-term basis would prevent using the property in an “economically feasible manner.” For the latter, the court focused on the fact that, at the time the plaintiff purchased the property, the plaintiff’s belief that it could use the property for short-term rentals in perpetuity was a reasonable “investment-backed expectation,” and this rationale applied even when his property was annexed into the Village of Glen Ellyn.

This Is a Case to Watch Moving Forward

While this is merely a preliminary ruling in a federal district court outside of the Sixth Circuit, the *Blakelick Properties* case could have significant ramifications on the legality of municipal short-term rental property bans. Additionally, this ruling demonstrates the fact-dependent nature of regulatory takings claims and exposes

potential vulnerabilities for municipalities seeking to implement short-term rental property bans in the future.

Frost Brown Todd's [Government Service Practice Group](#) represents and provides counsel regarding land use and zoning issues to municipalities across the country. Contact the authors of this article or any of the firm's government services attorneys in your jurisdiction if you have questions about addressing these or similar land use and zoning issues.

[\[1\]](#) *Blakelick Properties, LLC v. Village of Glen Ellyn*, No. 25-cv-04569 (N.D. Ill. May 8, 2025).

[\[2\]](#) *Murr v. Wisconsin*, 582 U.S. 383, 393 (2017) (citing *Penn Central Transp. Co. v. New York City*, 438 U.S. 104, 124 (1978)).

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