

PROPERTY II QUIZ: ZONING

Prof. Bell

NOTE: Choose the one best answer to each question, applying the majority rule of property law. As on the MBE, you have 1.8 minutes/answer.

Question 1

Developer purchased a plot of land in City, planning to build a factory on it, and paid \$1,000,000/acre. Before Developer broke ground, however, City enacted a zoning regulation that effectively limited Developer to building only residences and small retail shops. Calculating that such uses will at best net a gain of only \$250,000/acre, and facing a large net loss on its investment, Developer brought suit to enjoin the City's zoning regulation.

- (a) Developer will prevail because the regulation took 3/4ths the value of the property for public use without just compensation.
- (b) Developer will prevail because no nuisance has as yet arisen.
- (c) City will prevail because the zoning regulations prevent nuisance-like conditions.
- (d) City will prevail because the zoning regulations did not destroy all of the property's value.

Question 2

Quirky owned property in the town of San Lenore, a Southern California municipality with zoning regulations requiring that all residences conform to a detailed set of design criteria—stucco exteriors, tile roofs, warm pastel colors, and so forth—to give the town an “Old Spanish Mission” feel. Quirky objected to the Spain’s colonization of the New World, however, both because it resulted in the subjugation of native people and because he regards the Catholic church as idolatrous. Rather than following the city’s design requirements, therefore, Quirky began building his home along spare, modernist lines, featuring large panes of glass and steel beams. The City brought suit to enjoin Quirky’s construction. What result?

- (a) Quirky wins because he has First Amendment right to express his disapproval of Spanish colonialism via his home’s architecture.
- (b) Quirky wins because federal law forbids the use of zoning to interfere with religious practices.
- (c) City wins because Quirky has ample other means to express his political views and it did not discriminate against his religion.
- (d) City wins because Quirky’s house threatens to decrease local property values.

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Answer Key

Question 1: The facts largely come from *Euclid*, which upheld the zoning regulations in question. The only really tricky bit is figuring out why City will win.

- (a) Part of the property at issue in *Euclid* suffered just as much decline in value, so plainly a 3/4ths reduction does not suffice to constitute a taking.
- (b) Again, as *Euclid* demonstrates, zoning regulations can preempt planned nuisance-like uses.
- (c) **This is the best answer, as zoning regulations are routinely upheld (as in *Euclid*) for controlling nuisance-like conditions.**
- (d) While it is true that City will prevail, this is not the best answer, because courts may strike down a zoning regulation if it goes so far as to leave no reasonable use for property. A 99% reduction in value thus might fail to pass judicial review, even though it would leave some value.

Question 2

- (a) Is not the right answer because (c) is.
- (b) Ditto.
- (c) **This is the best answer because, as *City of Ladue v. Gilleo* demonstrated, zoning regulations can effectuate content-neutral restrictions on architectural aesthetics.**
- (d) While protection of property values is a legitimate basis for a zoning regulation, it cannot alone excuse regulations otherwise suspect on constitutional grounds.