

Appeals Court Rules Nashville Sidewalk Law Violates Constitution
Court overturns lower court ruling in favor of Nashville's sidewalk mandate --
Property owners represented by Southeastern Legal Foundation

On May 10, 2023, [the Sixth Circuit Court of Appeals overturned](#) the [ruling of the U.S. District Court in Nashville](#) which had previously upheld the legality of Metro Nashville's controversial sidewalk law. The city requires the construction of sidewalks or payment of a fee in exchange for a home building permit. Represented by [Southeastern Legal Foundation](#) (SLF) and [Beacon Center of Tennessee](#), two Nashville-area property owners, Jim Knight and Jason Mayes, challenged the law after Metro told them they could only have a permit to construct new homes if they built sidewalks that would not connect to any others (Nashville's famous sidewalks-to-nowhere) or paid Nashville a hefty fee. In both cases, that would have cost appx. \$9,000.

Nashville's sidewalk law has been the subject of much ridicule from homeowners and the general public alike. It has been repeatedly challenged in court. This landmark ruling from a federal court concluded that the law was an unconstitutional taking in violation of the Fifth and Fourteenth Amendments.

The Sixth Circuit Court of Appeals rejected Nashville's arguments that the law was constitutional, ruling that the city could not take property indirectly through permit demands that it could not demand directly. The ruling returns the case back to the district court to decide the appropriate remedy. This ruling is important because it stops local governments from working around the Constitution by legislatively mandating permit conditions that the Supreme Court has compared to extortion in other contexts.

Braden H. Boucek, SLF Director of Litigation, said, "Permits are not a license to steal. Every American property owner should celebrate this ruling because it protects them against cities holding their properties hostage," said Braden H. Boucek, SLF Director of Litigation who argued the appeal before the Sixth Circuit U.S. Court of Appeals.

"Property ownership comes with costs, but it also comes with protected rights, and this case demonstrates that all branches of government have limited authority to interfere with those rights," said Kimberly Hermann, SLF General Counsel. "We see cities ignoring the Constitution and this unconstitutional practice happening across America. Our case has ended that."

Boucek added, "For years now, Nashville has unconstitutionally made countless homeowners pay thousands of dollars to pay for sidewalks that belong to the city. This law shot up the cost of housing in Nashville and forced regular Nashvillians to cover Metro's budgetary shortfalls."

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