

HMC Assets, LLC v. City of Deltona, No. 6:17-cv-1255-Orl-31DCI, 2018 WL 647452
(M.D. Fla. Jan. 31, 2018)

Federal Court Finds Mortgagee Lacks Standing Under Florida Constitution for Inverse Condemnation Claim but Allows Federal Constitutional Takings Claims to Proceed

In *HMC Assets, LLC v. City of Deltona*, HMC sued the City of Deltona over the City's demolition of a single-story residence. HMC held a mortgage on the residence and had begun foreclosure proceedings in November 2014. However, in April 2016—just one month before HMC obtained its final judgment of foreclosure—the City demolished the residence without giving HMC notice. HMC sued, alleging the City had: (1) inversely condemned its property, in violation of the Florida Constitution; (2) taken its property without providing just compensation, in violation of the U.S. Constitution; and (3) deprived HMC of its procedural right to due process, also in violation of the U.S. Constitution.

The City moved to dismiss all of HMC's claims. The court granted the City's motion to dismiss HMC's inverse condemnation claim, holding HMC had no standing to bring it under the Florida Constitution. The court reasoned that HMC, as a mortgagee, had only a lien interest in the property, as opposed to an actual ownership interest. Thus, the court found the City had not unconstitutionally deprived HMC of its property rights.

However, the court also held that as a matter of U.S. Constitutional law, the City's taking of a mortgagee's rights without compensation can violate the Takings Clause. Thus, the City's demolition of a residence HMC held a mortgage on survived the City's motion to dismiss. Likewise, the court held the City could have violated HMC's procedural due process rights. Because HMC had a property interest in the residence, it was entitled to notice and an opportunity to be heard before the City demolished the building.