
EMINENT DOMAIN - NORTH CAROLINA

Town of Midland v. Wayne

Court of Appeals of North Carolina - September 3, 2013 - S.E.2d - 2013 WL 4714329

The Town of Midland condemned a portion of a planned subdivision for an easement in which to construct a natural gas pipeline and a fiber optic line.

A contractor employed by the Town drove vehicles and equipment and maintained construction staging areas on portions of the subdivision outside of the easement for a period of time during construction.

Defendant filed a counterclaim for inverse condemnation, claiming that: a) the contractor's actions constituted a temporary taking of portions of the subdivision; and b) the Town had inversely condemned its entire tract by adversely impacting its rights to develop it in accordance with the previously-approved subdivision plan.

The appeals court held that: a) the trial court did not err in ruling there was an inverse taking with regard the parking of construction vehicles and the temporary construction of a road on the property outside of the assessment condemned by the Town's contractor; and b) the trial court erred in concluding that there was a regulatory taking of the property in its entirety.

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