

Bond Case Briefs

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EMINENT DOMAIN - WISCONSIN

118th Street Kenosha, LLC v. Wisconsin Dept. of Transp.

Supreme Court of Wisconsin - December 10, 2014 - N.W.2d - 2014 WI 125

After the Department of Transportation (DOT) recorded an award of damages for a temporary easement on property, property owner challenged the award. The DOT filed a motion in limine to prohibit property owner from introducing any evidence that it was entitled to compensation “for any item whatsoever other than the temporary limited easement.” The Circuit Court granted the motion. Property owner appealed. The Court of Appeals reversed and remanded. DOT petitioned for review, which was granted.

The Supreme Court of Wisconsin held that property owner was not entitled to diminution of value damages caused by previous relocation of access road.

Temporary limited easement that authorized DOT to construct new driveway connecting commercial property to a different road did not cause commercial property to lose direct access and proximity to previous access road, and therefore property owner was not entitled to damages in eminent domain proceeding regarding easement for commercial property’s diminution in value resulting from its loss of direct access and proximity to previous access road. It was the previous access road’s relocation that caused the loss of direct access, rather than the subsequent temporary limited easement.