

Bond Case Briefs

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EASEMENTS - INDIANA

Duke Energy of Indiana, LLC v. City of Franklin

Court of Appeals of Indiana - December 16, 2016 - N.E.3d - 2016 WL 7333575

Holder of utility easement in land underneath proposed intersection expansion project brought action against city, alleging that the city lacked sufficient property rights to complete the project and that the project would impermissibly interfere with the holder's easement rights.

The Superior Court denied the holder's request for a preliminary injunction, and it appealed.

The Court of Appeals held that:

- Holder lacked standing to challenge city's property interests, and
- Holder failed to demonstrate reasonable likelihood of success at trial.

Holder of utility easement in land underneath proposed intersection expansion project lacked standing to challenge project based on city's purportedly insufficient property rights in the land. Holder was essentially pursuing an ejectment action against the city based on alleged trespass, and holder did not have a possessory interest in the land that would it to maintain such an action.

Holder of utility easement in land underneath proposed intersection expansion project failed to demonstrate a reasonable likelihood of success at trial with respect to its claim that project would permissibly interfere with its easement rights, as required to support holder's request for preliminary injunction preventing city from completing the project. City demonstrated that project was part of effort to beautify corridor, enhance motorist safety, and spur commercial and business growth, and holder failed to show that its ability to repair and maintain its transmission lines would be affected apart from having to employ some additional traffic control measures.