

Bond Case Briefs

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EMINENT DOMAIN - CALIFORNIA

Mercury Casualty Company v. City of Pasadena

Court of Appeal, Second District, Division 3, California - August 24, 2017 - 2017 WL 3634467 - 17 Cal. Daily Op. Serv. 8457 - 2017 Daily Journal D.A.R. 8268

Homeowners' insurer brought subrogation action against city for inverse condemnation after tree on city parkway fell on house during windstorm.

Following a bench trial, the Superior Court entered judgment for insurer, and city appealed.

The Court of Appeal held that:

- Tree was not a "work of public improvement" absent evidence as to who planted tree or for what purpose, and
- City's adoption of tree protection and maintenance ordinance did not convert tree into a work of public improvement.

Tree on city parkway was not a "work of public improvement," for purposes of inverse condemnation claim after tree fell on home, absent evidence as to who planted tree or for what purpose, or that city took any deliberate action before tree fell.

City's adoption of tree protection and maintenance ordinance did not convert tree on parkway into a "work of public improvement" for purposes of inverse condemnation claim which arose after windstorm knocked tree into house. Ordinance was adopted decades after tree was planted, ordinance did not establish specific design standards or parameters for planting or removing street trees or include maintenance schedules, city's urban forestry plan did not reduce value of house, and city's five-year cycle for inspecting and caring for city trees was not a policy decision to shift loss to private property owners but rather exceeded the standards used by most other cities.