

Bond Case Briefs

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EMINENT DOMAIN - GEORGIA

City of Marietta v. Summerour

Supreme Court of Georgia - October 30, 2017 - S.E.2d - 2017 WL 4870931

City filed petition to condemn property.

Following an evidentiary hearing before a special master, the Superior Court adopted the return of the special master and entered an order of condemnation. Landowner appealed, and the Court of Appeals vacated and remanded. City filed a petition for a writ of certiorari, which was granted.

The Supreme Court of Georgia held that:

- City failed comply with statutory requirement that it provide the appraisal summary to landowner prior to the initiation of condemnation negotiations or as soon thereafter as practicable; and
- City's failure to comply with statutory requirement required dismissal of its condemnation petition.

City failed comply with statutory requirement that it provide the appraisal summary to landowner prior to the initiation of condemnation negotiations or as soon thereafter as practicable; city did not send landowner an appraisal until three years after it first made offer for property, and appraisal it did send was dated almost ten months prior to its production.

City's failure to comply with statutory requirement that it provide landowner an appraisal summary at or before initiation of negotiations required dismissal of its condemnation petition; because landowner did not acquiesce in or waive strict compliance with the statute, city acted outside its authority by condemning the property.

A failure to comply with statute governing condemnation practices, even when that failure requires the dismissal of a condemnation petition, does not permanently foreclose efforts to acquire a particular property; if a condemner violates some provision of the statute—for example, by failing to provide an appraisal summary at or before the initiation of negotiations and failing to rectify that failure for a long period of time—it might effectively reset its opportunity to comply with the statute by obtaining a new appraisal and reinitiating negotiations, giving a summary of that appraisal to the landowner at the time negotiations recommence.