

Bond Case Briefs

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EMINENT DOMAIN - CONNECTICUT

Wellswood Columbia, LLC v. Town of Hebron

Supreme Court of Connecticut - November 7, 2017 - A.3d - 327 Conn. 53 - 2017 WL 4940238

Property owner brought action against town seeking temporary and permanent injunction to prevent town from closing road which provided only access to property.

Following trial to the court, the Superior Court concluded that property owner was not entitled to permanent injunction. Property owner appealed. The Supreme Court reversed and remanded.

Thereafter, property owner brought action against town for temporary taking, temporary nuisance and tortious interference with business expectancies, alleging that as result of the temporary closure of road, it was prevented from developing property and was deprived of economic value and income.

The Superior Court concluded that property owner's claims were barred by doctrine of res judicata and granted town's motion for summary judgment. Property owner appealed.

The Supreme Court of Connecticut held that:

- Mere fact that extent of property owner's damages was not immediately known at time that town allegedly effected taking did not operate to postpone accrual of property owner's takings claim for res judicata purposes;
- Road closure did not constitute temporary private nuisance, or any other type of continuing or recurrent wrong, and thus property owner's claim did not fall within exception to res judicata;
- Assuming that road closure could properly be characterized as nuisance, such closure was permanent nuisance, and thus property owner's claim did not fall within exception to res judicata;
- Property owner's claim for tortious interference with business expectancies could have been brought as part of property owner's prior action seeking injunction, and thus tortious interference claim was barred by doctrine of res judicata;
- Policies undergirding doctrine of res judicata strongly supported application of doctrine to property owner's takings action; and
- Property owner should have brought takings claim in prior injunction action, and thus doctrine of res judicata applied to bar takings claim.