

Bond Case Briefs

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EMINENT DOMAIN - INDIANA

Bellwether Properties, LLC v. Duke Energy Indiana, Inc.

Supreme Court of Indiana - December 20, 2017 - 87 N.E.3d 462

Landowner brought action against electrical utility, asserting claim for inverse condemnation based on increase of required clearance around electrical lines, which increase extended clearance requirement beyond size of utility's easement to maintain such lines on landowner's property.

Utility filed motion to dismiss, asserting that landowner's claim was barred by six-year statute of limitations. The Circuit Court granted utility's motion. Landowner appealed. The Court of Appeals reversed and remanded. Utility sought transfer, which was granted.

The Supreme Court of Indiana held that record did not establish when landowner's claim for inverse condemnation accrued and, thus, complaint should not have been dismissed for failure to state a claim based on contention that statute of limitations had expired.

Record did not establish when landowner's claim for inverse condemnation against utility accrued, and, thus, complaint should not have been dismissed for failure to state a claim based on utility's contention that six-year statute of limitations had expired; while utility argued that claim accrued by operation of law when Utility Regulatory Commission adopted edition of National Electric Safety Code that expanded required safety clearance beyond ten feet allowed by utility easement on landowner's property, landowner countered that claim did not accrue until Code expanded easement, which occurred only when there was sufficiently high voltage associated with utility's operation of its electrical lines, and complaint did not state when additional burden beyond what easement authorized first occurred.