

Bond Case Briefs

Municipal Finance Law Since 1971

INVERSE CONDEMNATION - MARYLAND

Colbert v. Mayor and City Council of Baltimore

Court of Special Appeals of Maryland - February 2, 2018 - A.3d - 2018 WL 679868

Resident brought negligence action against city and mayor after underground water main ruptured in close proximity to her residence, causing flooding to her home.

The Circuit Court granted summary judgment in favor of city and mayor. Resident appealed.

The Court of Special Appeals held that:

- City did not have actual or constructive notice of defect in water main prior to break, and
- Res ipsa loquitur did not apply to establish city's negligence.

City did not have actual or constructive notice of defect in water main, and therefore city did not breach duty to maintain public works in good condition, such that it was not liable for negligence to resident whose home flooded after water main ruptured; although, before leak in question, there were complaints of leaks in close proximity to resident's home and city had trouble keeping up with needed maintenance projects, there was no evidence presented to counter evidence from city employee that "longevity" of water main pipe, which was installed in 1939, was "upwards of 120 years," there was nothing in city's service records to link prior repairs or prior leaks to defect in water main, and nature of defect in water main was not readily observable, as it was underground.

Res ipsa loquitur did not apply to establish city's negligence in action by resident whose home flooded as result of rupture of underground water main break in close proximity to home; there was no evidence to suggest that the ruptured water main, which was 76 years old at time of the rupture, was a casualty that usually did not occur in the absence of negligence.