

# **Bond Case Briefs**

*Municipal Finance Law Since 1971*

---

## **EMINENT DOMAIN - CALIFORNIA**

### **Medical Acquisition Company, Inc. v. Superior Court**

**Court of Appeal, Fourth District, Division 1, California - January 11, 2018 - Cal.Rptr.3d - 19 Cal.App.5th 313 - 2018 WL 358366**

Condemning agency brought quick-take eminent domain action, seeking to acquire partially completed medical building.

After agency deposited, and landowner withdrew, \$4.7 million, and action was consolidated with another case involving a lease between the parties, the Superior Court entered judgment on jury verdict that compensation for taking was \$17 million, ordered condemning agency to increase deposit by \$12.2 million, granted landowner's motion to set aside agency's notice of abandonment of the proceeding, and, after agency filed notice of appeal and deposited additional funds, allowed landowner to withdraw \$4.4 million of the \$12.2 million deposit but required a bond before landowner could withdraw remaining amount.

Landowner filed petition for writ of mandate.

The Court of Appeal held that:

- As a matter of first impression, court was not required to impose an undertaking before allowing landowner to withdraw funds, but had discretion to impose undertaking before landowner could withdraw entire deposit, and
- Statutory provision permitting court to order an undertaking did not violate California Constitution's prompt release requirement as applied to landowner.

Trial court was not required to impose an undertaking before allowing landowner, after judgment as to just compensation in eminent domain proceeding, to withdraw portion of funds to which it was entitled from deposit by condemning agency, which had appealed order setting aside its subsequent abandonment of the proceeding; however, court had discretion to impose undertaking before landowner could withdraw remainder of deposit.

Quick-take eminent domain statute's provision permitting court to order an undertaking before a landowner withdraws funds from a deposit after judgment did not violate California Constitution's prompt release requirement as applied to landowner, which alleged that bonding companies required 100 percent collateral to issue bond such that it was required to offer the functional equivalent of the deposit before withdrawal; landowner did not establish all bonding companies required 100 percent collateral, bonding companies had responded to landowner's request for entire \$12.2 million deposit even though court allowed landowner to withdraw \$4.4 million without undertaking, and it was possible company would provide a bond without an undertaking if satisfied with audited financials.