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EMINENT DOMAIN - CALIFORNIA

Weiss v. People ex rel. Department of Transportation

Court of Appeal, Fourth District, Division 3, California - March 1, 2018 - 20 Cal.App.5th 1156 - 229 Cal.Rptr.3d 755 - 18 Cal. Daily Op. Serv. 2156 - 2018 Daily Journal D.A.R. 1996

Property owners brought inverse condemnation and nuisance action against Department of Transportation and county transportation authority, alleging that a freeway sound wall built directly across the freeway from their homes increased noise and dust, interfered with enjoyment of homes, and diminished property values.

The Superior Court granted defendants' motions to dismiss. Property owners appealed.

The Court of Appeal held that procedure for pretrial resolution of issues affecting the determination of compensation in eminent domain cases does not apply to inverse condemnation actions.

Although both "eminent domain" proceedings and "inverse condemnation" actions implement the constitutional rule that private property may not be "taken or damaged" for public use without just compensation, the proceedings are not identical, as a property owner initiates an inverse condemnation action, while an eminent domain proceeding is commenced by a public entity; eminent domain actions typically focus on the amount of compensation owed the property owner, since by initiating the proceeding the government effectively acknowledges that it seeks to take or damage the property in question, while in an inverse condemnation action, the property owner must first clear the hurdle of establishing that the public entity has, in fact, taken or damaged his or her property before he or she can reach the issue of just compensation.

Statutory procedure for pretrial resolution of issues affecting the determination of compensation in eminent domain cases does not apply to inverse condemnation actions; Eminent Domain Law was not intended to apply to determining liability in inverse condemnation cases, that branch of law having been left to judicial development, and the procedure did not lend itself to promoting settlement in the liability context, or meaningfully supplement existing pretrial procedures governing a summary judgment motion.

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