

Bond Case Briefs

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EMINENT DOMAIN - KANSAS

Nauheim v. City of Topeka

Supreme Court of Kansas - January 11, 2019 - P.3d - 2019 WL 165983

Former commercial tenants brought action against city for relocation benefits, after tenants were forced to relocate in connection with city purchasing property leased by tenants from landlord.

The District Court granted summary judgment to the city. Tenants appealed, and the Court of Appeals reversed and remanded. Tenants petitioned for review, which was granted.

The Supreme Court of Kansas held that:

- Showing that real property was acquired “through negotiation in advance of a condemnation action,” warranting payment of displaced person benefits, does not require a specific evidentiary showing that the condemning authority either threatened condemnation or took affirmative action towards a condemnation action, and
- Genuine issue of material fact as to whether city’s negotiations to acquire property were in advance of a condemnation action precluded summary judgment on claim for relocation benefits.

A showing that real property was acquired “through negotiation in advance of a condemnation action,” warranting payment of displaced person benefits, does not require a specific evidentiary showing that the condemning authority either threatened or took affirmative action towards a condemnation action, as, while that evidence would be relevant, it is not the only evidence that could cause a fact-finder to conclude a condemning authority would have resorted to eminent domain after unsuccessful negotiation.