

# **Bond Case Briefs**

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## **EMINENT DOMAIN - SOUTH CAROLINA**

### **Georgetown County v. Davis & Floyd, Inc.**

**Court of Appeals of South Carolina - February 13, 2019 - S.E.2d - 2019 WL 575898**

County brought inverse condemnation action against city and state Department of Transportation, alleging that defendants' water drainage project caused sinkholes that damaged public buildings and real property owned by county and seeking compensation.

The Circuit Court granted defendants' motion to dismiss. County appealed.

The Court of Appeals held that:

- Takings Clause language prohibiting "private property" from being taken without consent or compensation did not refer to property owned by state or political subdivisions;
- "Home rule" statute and amendment permitting county to own property in own name and requiring provisions to be construed in county's favor did not sever county's relationship with state;
- Eminent Domain Procedure Act did not apply to action; and
- Public policy did not compel Court of Appeals to find that Takings Clause reached inverse condemnation of public property.

County, as a political subdivision of state, was not permitted to bring inverse condemnation claim against state Department of Transportation after Department's water drainage project allegedly caused sinkholes that damaged public buildings and county's property.

"Home rule" statute and constitutional amendment permitting county to own property in its own name and requiring constitutional provisions to be liberally construed in favor of local government did not sever county's symbiotic relationship with state regarding application of Takings Clause, as necessary for county to bring inverse condemnation action against state; "home rule" concept did not endow counties with separate sovereignty for purposes of Takings Clause.

Eminent Domain Procedure Act did not apply to inverse condemnation action brought by county against city and state Department of Transportation after defendants' water drainage project allegedly caused sinkholes that damaged public buildings and county's property, and thus county was not entitled to just compensation under Act for alleged damages; although definitional section of Act included public entity as "person," and subsequently condemnee, section did not supplant plain meaning of "private property" in constitution, which excluded county property, and inverse condemnation claim sprang from constitution, not from Act.

Public policy did not compel finding that Takings Clause reached inverse condemnation of public property, and thus that county was entitled to just compensation in action brought against city and state Department of Transportation after defendants' water drainage project allegedly caused sinkholes that damaged public buildings and county's property, where the people ratified state constitution's Takings Clause, whose reference to private property did not include public property.

