

Bond Case Briefs

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EMINENT DOMAIN - FEDS

Taylor v. United States

United States Court of Federal Claims - April 5, 2019 - Fed.Cl. - 2019 WL 1497132

Landowners, whose land was located near Air Force base, brought action against the United States after the United States Air Force allegedly flew training missions within landowners' airspace and improperly interfered with lease contract between landowners and wind energy company, and landowners alleged that Air Force's actions amounted to both a physical and regulatory taking of their property.

Air Force filed motion to dismiss for lack of subject matter jurisdiction and for failure to state claim.

The Court of Federal Claims held that:

- Landowners' contract with wind energy company was a cognizable Fifth Amendment property interest;
- Landowners' claim sounded in tort and was not a takings claim, and because claim was not founded upon Fifth Amendment, Court of Federal Claims did not have jurisdiction;
- Landowners' regulatory takings claim was not ripe for judicial review;
- Government did not take property rights of landowners when government indicated to company that a "No Hazard" determination from Federal Aviation Administration (FAA) was not forthcoming;
- Although landowners' contract with company for wind farm was a cognizable Fifth Amendment property interest, landowners did not sufficiently allege that this right was taken, as required for regulatory takings claim;
- Landowners did not state claim for physical taking by aircraft overflights; and
- Court of Federal Claims lacked jurisdiction over landowners' declaratory relief claims.