

Bond Case Briefs

Municipal Finance Law Since 1971

INVERSE CONDEMNATION - ILLINOIS

Kaskaskia Land Company, LLC v. Vandalia Levee and Drainage District

Appellate Court of Illinois, Fifth District - September 5, 2019 - N.E.3d - 2019 IL App (5th) 180403 - 2019 WL 4232601

Landowner brought inverse condemnation action against levee and drainage district, claiming district's prescriptive flood easement over landowner's island property constituted a taking for which landowner was entitled to just compensation.

The Circuit Court granted district's motion to dismiss. Landowner appealed.

The Appellate Court held that:

- Prescriptive flood easement was not taking, and
- Enforcement of prescriptive flood easement was not regulatory taking.

Prescriptive flood easement of levee and drainage district on landowner's island property, which prohibited landowner from interfering with natural flow of floodwater from surrounding river, arose over 40 years before landowner purchased property, and thus prescriptive easement was not taking, as would require compensation in landowner's action against district for inverse condemnation.

Levees constructed by landowner on his island property were legally impermissible nuisances prior to issuance prescriptive flood easement over property, and thus enforcement of levee and drainage district's prescriptive flood easement, which entailed ordering landowner to remove levees it had constructed, was not regulatory taking, as would require compensation in landowner's action against district for inverse condemnation; landowner's levees caused upstream flooding, damaging district's upstream levees.