

# **Bond Case Briefs**

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## **EMINENT DOMAIN - FLORIDA**

### **TLC Properties, Inc. v. Department of Transportation**

**District Court of Appeal of Florida, First District- January 21, 2020 - So.3d - 2020 WL 284031**

Billboard owner brought an inverse condemnation action against Department of Transportation, claiming highway flyover project violated its rights under easement for an unobstructed view of and access to billboard.

The Circuit Court granted summary judgment in favor of Department. Billboard owner appealed.

The District Court of Appeal held that:

- Unobstructed view of billboard on private property was not a compensable property interest, and
- Flyover highway project would not deny billboard owner access from highway to property on which its billboard was located, such that no compensation was warranted for loss of access.

Unobstructed view of an advertising billboard on private property from public highway was not a compensable property interest, and thus loss of visibility of billboard to passers-by on highway due to highway flyover project was not compensable in inverse condemnation action, although restrictive covenant in easement deed that was provided to billboard owner prohibited property owner from restricting view of billboard from public highway; landowners could not contract to control or limit the government's ability to acquire lands for public purposes, and billboard owner had an appropriate remedy in breach of contract claim against landowner for highway construction's effect on easement.

Flyover highway project would not deny billboard owner access from highway to property on which its billboard was located, and thus billboard owner was not entitled to compensation for loss of access in inverse condemnation action against Department of Transportation, although flyover would result in diversion of traffic, where contractual easement for access to billboard did not specify where it was to be accomplished on landowner's property, neither billboard owner nor landowner ever applied for a curb cut or other permissible entry from highway, and flyover construction plans included construction of a service road running parallel to flyover with a curb cut on highway permitting access to landowner's property.