

# **Bond Case Briefs**

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## **EMINENT DOMAIN - MINNESOTA**

### **State by Commissioner of Transportation v. Elbert**

**Supreme Court of Minnesota - April 22, 2020 - N.W.2d - 2020 WL 1933237**

Landowners and Department of Transportation each sought review of court-appointed commissioners' award of damages, including severance damages attributable to presumed loss of access to property abutting highway during highway construction project, following grant of permanent and temporary easements to Department via condemnation petition.

The District Court granted Department's motion for partial summary judgment. Landowners appealed. The Court of Appeals affirmed. Landowners sought review, which was granted.

The Supreme Court held that:

- A court will not presume that access to property abutting highway is destroyed when Department obtains a temporary easement;
- Department did not take the right of access when it took a temporary construction easement; and
- Landowners were not entitled to severance damages based on construction-related interferences premised on assumed loss of access from project as a whole.

A court will not presume that access to a landowner's property abutting highway is destroyed, entitling the landowner to loss-of-access damages, when Department of Transportation is granted a temporary easement via a condemnation petition for a highway construction project.

Department of Transportation did not take the right of access to property abutting highway when it used condemnation petition to acquire temporary construction easement for highway construction project, and therefore landowners were not entitled to compensation for a taking on a loss-of-access theory, where landowners retained reasonably convenient and suitable access to their abutting property at all times during construction.

Landowners were not entitled to severance damages for construction-related interferences during highway construction project for which Department of Transportation acquired temporary construction easement via condemnation petition, where focus of appraisal pertaining to severance damages used calculations for construction-related interference coming from project as a whole based on a presumed loss of access stemming from general construction on highway, and landowners never lost access to their property.