

# **Bond Case Briefs**

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## **EMINENT DOMAIN - CALIFORNIA**

### **Lockaway Storage v. County of Alameda**

**Court of Appeal, First District, Division 3, California - May 9, 2013 - Cal.Rptr.3d - 2013 WL 1910878**

County determined that an amendment to its General Plan, adopted by voters as Measure D, prohibited Lockaway Storage from completing a project to develop a self-storage facility in the County. Lockaway sued for inverse condemnation and civil rights violations. After issuing a writ of mandate that authorized the project to proceed, the superior court conducted a nonjury trial which resulted in a judgment holding the County liable for a temporary regulatory taking and awarding Lockaway damages of \$989,640.96. Pursuant to a separate order, the court awarded Lockaway attorney fees totaling \$728,015.50.

The County appealed both the judgment and the attorney fee order. It contended the judgment must be reversed because: 1) Lockaway's development plan violated Measure D; and 2) even if the court correctly allowed Lockaway to proceed with the project, the County's conduct did not effect a regulatory taking. The County also contended that if the judgment was affirmed, the trial court erred by awarding Lockaway attorney fees for work that was irrelevant or unnecessary to its inverse condemnation claim.

The appeals court concluded that the trial court was correct to rule that Lockaway's project was unaffected by the passage of Measure D. The County's change of position, almost two years after Measure D was implemented, was an unreasonable and unjust interpretation of the measure that effectuated a regulatory taking. The basis for the award of attorney fees was easily discerned from the record and was reasonably within the scope of the trial court's discretion.