

# **Bond Case Briefs**

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## **EMINENT DOMAIN - IDAHO**

### **Alpine Village Co. v. City of McCall**

**Supreme Court of Idaho, Boise - May 2013 Term - June 14, 2013 - P.3d - 2013 WL 2663852**

Property owner brought action against city alleging that city's enforcement of ordinance that had been found to be unconstitutional in a separate proceeding effectuated an unlawful taking of property in violation of federal and state constitutions.

The Supreme Court of Idaho held that:

- Notice provision of Idaho Tort Claims Act (ITCA) applied;
- Notice provision of ITCA was not complied with;
- Notice provision of ITCA was procedural, rather than jurisdictional, bar;
- Application of notice provision of ITCA did not violate equal protection;
- Doctrine of quasi-estoppel did not preclude assertion of notice provision of ITCA as defense;
- City's enforcement of ordinance did not constitute a final decision;
- Property owner did not seek compensation for alleged taking through available state procedures; and
- City was entitled to award of appellate attorney fees.