

Bond Case Briefs

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EMINENT DOMAIN - GEORGIA

Bray v. Department of Transp.

Court of Appeals of Georgia - October 23, 2013 - S.E.2d - 2013 WL 5736985

Emory H. Bray owns real property in Coweta County which was subject to a condemnation action in which part of the property was taken for public road improvements. Bray was compensated for the taking pursuant to the eminent domain provisions of the Georgia Constitution. Bray's brought a subsequent inverse condemnation action in which he sought additional compensation for consequential damages allegedly caused by the DOT's negligent construction of the road improvements for which his property was taken.

The Court of Appeals noted in its decision reversing the trial court that, because Bray sought compensation for property negligently taken or damaged by the road improvements, he stated a cause of action under the constitutional eminent domain provisions not barred by the prior condemnation award for damages resulting from proper construction of the improvements. Damage to remaining property caused by negligent or improper construction in the course of a prior eminent domain project may be recovered from the condemnor by a separate inverse condemnation proceeding, and the condemnor cannot escape the constitutional duty to compensate the property owner for the damage by claiming that the negligent party was an independent contractor rather than the condemnor's agent or employee.