

# **Bond Case Briefs**

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## **EASEMENTS - VIRGINIA**

### **Old Dominion Boat Club v. Alexandria City Council**

**Supreme Court of Virginia - October 31, 2013 - S.E.2d - 2013 WL 5833271**

Owner of alleged dominant estate brought action against city, city council, and owners of alleged servient estate, seeking declaratory judgment stating that it had vested easement over 30-foot right-of-way and seeking permanent injunction prohibiting erection of obstructions.

The Circuit Court decreed that owner of alleged dominant estate had vested easement and permanently enjoined owners of alleged servient estate from erecting any obstruction. Owners of alleged servient estate, city, and city council appealed. The Supreme Court of Virginia reversed and remanded. On remand, the Circuit Court entered judgment in favor of city and alleged servient estate owner. Alleged dominant estate owner appealed.

The Supreme Court of Virginia held that:

- City's acquisition of right-of-way did not extinguish easement, and
- Easement was not extinguished by fulfillment of its purpose.

Easement over right-of-way was not extinguished by fulfillment of its purpose when city acquired the right-of-way and converted it to a public street, since purpose of easement continued. Deed stated that purpose of easement was to provide more easy communication with the public main streets, changing right-of-way did not result in a cessation of the purpose of the easement, but merely facilitated the easement in continuing to fulfill its ongoing purpose.

Cessation of purpose is essential to a finding of extinguishment of an easement by fulfillment of its original purpose; without cessation of the purpose for which the easement was created, an express easement does not end when its purpose is simply fulfilled or when it is no longer necessary unless its express terms so state.