

Bond Case Briefs

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INVERSE CONDEMNATION - NORTH CAROLINA

Department of Transp. v. Webster

Court of Appeals of North Carolina - November 19, 2013 - S.E.2d - 2013 WL 6073033

Following condemnation of private road, Department of Transportation (DOT) moved for a hearing to determine whether DOT's actions in granting a driveway access to a business 18 months after the date of taking constituted a compensable taking of the defendants' property, or whether the actions constituted a non-compensable exercise of the State's police power. The Superior Court ordered that evidence of the driveway permit and its effects should not be included as elements of damage at the trial in condemnation proceeding. Defendant property owners appealed.

The Court of Appeals held that:

- Trial court was authorized to address whether increased traffic flow was a compensable damage subject to a jury's determination in hearing under statute providing that judge may hear and determine any and all issues raised by condemnation pleadings other than damages, and
- Any effects related to increased traffic due to the driveway permit did not constitute a taking or compensable damages to adjacent properties.