

Bond Case Briefs

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EMINENT DOMAIN - MISSOURI

City of North Kansas City v. K.C. Beaton Holding Co., LLC

Missouri Court of Appeals, Western District - January 14, 2014 - S.W.3d - 2014 WL 114657

Third class, non-charter city brought condemnation action against property owner and operator of fast food restaurant located on property, seeking to acquire the property as part of larger project to redevelop blighted area. Property owner and restaurant operator filed motion to dismiss. The Circuit Court granted motion, on grounds that city lacked statutory authority to condemn the property for the purpose of eliminating blight. Cross-appeals were taken.

The Court of Appeals held that:

- City lacked statutory authority to condemn property upon which fast food restaurant was operated for purpose of eliminating blight, and
- Landowner and restaurant operator were not aggrieved by trial court's order granting their motion to dismiss condemnation action, and thus, were not entitled to file cross-appeal.

Eliminating of blight did not qualify as "public purpose" within meaning of statute governing condemnation of private property by third class cities. Although statute generally conferred upon third class cities power to condemn private property for any necessary public purpose, elimination of blight was only recognized to be a public purpose, through constitutional amendment and case law, subsequent to statute's enactment, and plain language of statute did not confer upon third class cities the authority to condemn private property to eliminate blight, either expressly or by implication.