

Bond Case Briefs

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EASEMENTS - OREGON

Howe v. Greenleaf

Court of Appeals of Oregon - January 29, 2014 - P.3d - 2014 WL 324562

Landowner brought quiet title action against adjoining landowner, seeking title to the centerline of a vacated roadway that lay between landowner and adjoining owner's platted subdivision. The Circuit Court found for adjoining landowner in a bench trial. Landowner appealed.

The Court of Appeals held that:

- Each landowner was entitled to an extension of their property boundaries to the centerline of vacated road;
- Recital of ownership of land under easement was not material to a mutual easement agreement; and
- Adjoining landowner's statements did not constitute a probable or threatened irreparable harm.

The statutory presumption that the rights of the grantor to the middle of the road, or the thread of the stream when used as the boundary, are included in the conveyance is a strong one that is rebutted only by an express provision in the conveyance excluding the abutting road, or by the grantor's clear intention to exclude the abutting road from the conveyance as discerned from the circumstances of the transaction.

A generally recognized exception to the common-law presumption that a vacated road reverts to the abutting landowners is where the dedicated road runs between two tracts of land under different ownership and the road was wholly dedicated from only one of the owners' tracts, then the entire width of the road transfers with the abutting property from which it was wholly dedicated.