

Bond Case Briefs

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EASEMENTS - CALIFORNIA

Schmidt v. Bank of America, N.A.

Court of Appeal, Fourth District, Division 1, California - February 21, 2014 - Cal.Rptr.3d - 14 Cal. Daily Op. Serv. 1893

Servient tenement owner brought action against dominant tenement owner and homeowners' association (HOA) for trespass, nuisance, and injunctive and declaratory relief. The Superior Court granted summary judgment for dominant tenement owner and HOA. Servient tenement owner appealed.

The Court of Appeal held that:

- Easement passed under deed that failed to mention easement;
- Easement "for public road purposes" did not create public right-of-way; and
- Fact issue existed as to whether structures and improvements fell within scope of easement.

Under reserved easement granting "the right of ingress and egress for public road purposes," the phrase "for public road purposes" meant "in order to reach a public road," and thus it did not create a public right-of-way over the easement, even though in a later deed the dominant tenement owner described the easement as one "for public road purposes, and incidental purposes."