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EMINENT DOMAIN - NEBRASKA

SourceGas Distribution LLC v. City of Hastings

Supreme Court of Nebraska - March 7, 2014 - N.W.2d - 287 Neb. 595

The City of Hastings, Nebraska filed a petition in the county court seeking to initiate condemnation proceedings against property owned by SourceGas Distribution LLC that was located in an area that had been annexed by Hastings. Hastings brought its petition under the general condemnation procedures found at Neb.Rev.Stat. §§ 76–701 through 76–726 (Reissue 2009 & Cum.Supp.2012) (chapter 76). In an effort to enjoin the county court proceedings, SourceGas filed a complaint for temporary and permanent injunction, primarily alleging that Hastings must utilize Nebraska's Municipal Gas System Condemnation Act, Neb.Rev.Stat. §§ 19–4624 through 19–4645 (Reissue 2012) (Gas System Condemnation Act), rather than the procedures in chapter 76.

The district court concluded that § 19–4626(2) exempted Hastings from being required to proceed under the Gas System Condemnation Act and that Hastings could utilize the general condemnation procedures set forth in chapter 76. The Supreme Court of Nebraska affirmed.

Section 19–4626(2), provides: "Nothing in the act shall be construed to govern or affect the manner in which a city which owns and operates its own gas system condemns the property of a utility when such property is brought within the corporate boundaries of the city by annexation." Therefore, § 19–4626(2) provides that the Gas System Condemnation Act does not apply when a city owns and operates its own gas system and the property that is being condemned is within the corporate boundaries of the city by annexation.

Supreme Court of Nebraska holds that Gas System Condemnation Act does not apply when a city owns and operates its own gas system and the property that is being condemned is within the corporate boundaries of the city by annexation and thus city could utilize general condemnation procedures.

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