
INVERSE CONDEMNATION - WISCONSIN

Fromm v. Village of Lake Delton

Court of Appeals of Wisconsin - April 3, 2014 - Slip Copy - 2014 WL 1316607

Homeowner brought a takings claim under the inverse condemnation statute, WIS. STAT. § 32.10 (2009–10), and the takings clause of the Wisconsin Constitution, against Village after sustaining the destruction of his home due to severe flooding and resulting erosion in June 2008. Homeowner alleged that the Village unconstitutionally took his property without providing just compensation.

Homeowner made two arguments on appeal as to why the circuit court erred in dismissing his complaint on summary judgment. First, he argued that actions of the Village caused the flooding event and, thus, the Village must compensate him under the takings clause of the Wisconsin Constitution and the inverse condemnation statute. Second, he argued in the alternative that, whether or not he can point to proof of specific Village action, this court "should find a per se taking under the facts of this case." Essentially, homeowner contended that the court should apply the following as a per se rule: any time a governmental unit controls a dam and there is a loss of private property due to flooding associated with the dam's operation, the governmental unit is liable for a taking.

The court concluded that the Village did not act in a manner that unconstitutionally took homeowner's property, and also rejected his request that the court apply or create a per se rule.

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