

Bond Case Briefs

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INVERSE CONDEMNATION - TENNESSEE

Phillips v. Montgomery County

Supreme Court of Tennessee, at Nashville - August 18, 2014 - S.W.3d - 2014 WL 4056698

Landowners, whose subdivision plat had been denied by county, brought action for regulatory taking under state constitution, seeking compensation under inverse condemnation statute. The Circuit Court denied county's motion to dismiss. County filed interlocutory appeal. The Court of Appeals affirmed in part, reversed in part, and remanded. Landowners applied for permission to appeal.

The Supreme Court of Tennessee held that:

- As a matter of first impression, state constitution's section governing taking of property encompasses regulatory takings to the same extent as the Takings Clause of the Fifth Amendment to the United States Constitution, and
- Landowners' complaint was sufficient to state regulatory takings claim.

Landowners' complaint against county was sufficient to state regulatory takings claim under state constitution's section governing taking of property, where landowners alleged that county planning commission's denial of landowners' subdivision plat was based solely upon fact that land lay in path of potential future extension of state highway and that there were no current plans to begin construction or condemnation proceedings for highway extension.