

# **Bond Case Briefs**

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## **EMINENT DOMAIN - PENNSYLVANIA**

### **In re Tax Parcel 27-309-216**

**Commonwealth Court of Pennsylvania - August 27, 2014 - A.3d - 2014 WL 4214922**

In 1992, the Department of Transportation condemned a portion of a tract of land as part of a project to relocate part of Route 15 in Lycoming County. As a result of the condemnation, part of the tract became landlocked.

Owners filed a civil action under the Private Road Act requesting the appointment of a board of viewers to open a private road across adjacent private property to connect their parcel to the nearest public road.

Owners admitted that the access they sought across the adjacent land was for their use - as opposed to a particular public use as required by the Act - but contended that because the public benefitted from the Commonwealth's exercise of eminent domain that caused their property to become landlocked in the first place, the public was also the primary and paramount beneficiary of the private road that would unlock their property.

The Commonwealth Court disagreed, noting that the Act was constitutionally limited to situations in which the public was the primary and paramount beneficiary of its use and, in this case, Owners failed to meet this burden. The Court agreed that the public was the undeniable beneficiary of the condemnation for the Route 15 relocation, but that the evidence of connection between the condemnation and use of the Act was less than compelling, citing the availability of other options for connecting the land to a public road and Owner's significant delay in seeking to utilize the Act.