

Bond Case Briefs

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CONTRACTS - GEORGIA

Effingham County v. Roach

Court of Appeals of Georgia - October 30, 2014 - S.E.2d - 2014 WL 5471744

Developer, through his bankruptcy trustee, filed breach of contract action arising out of county's failure to bring water and sewer utilities to property. The trial court denied county's motion for summary judgment. County appealed.

The Court of Appeals held that:

- Even if developer impact fee provision was invalid, provision was severable and remainder of contract was enforceable;
- County waived sovereign immunity over breach of contract action; and
- Genuine issues of material fact precluded summary judgment.

Even if impact fee provision in contract between developer and county was invalid, provision was severable, and thus the remainder of contract was enforceable, including county's obligation to provide water and sewer utilities to property. Contract specifically provided that invalid or unenforceable parts of contract were severable, contract contained several promises by each party other than the promise to pay impact fees, and those other obligations were severable.

County waived sovereign immunity over developer's breach of contract claim alleging county breached obligation to bring water and sewer utilities to property, where developer's action was based on enforceable contract.

Genuine issue of material fact existed as to whether no-damages-for-delay clause in contract between county and developer precluded developer's claim for damages resulting from delay due to county's protracted discussions with city about which governmental entity was going to provide water and sewer utilities to property, thus precluding summary judgment on developer's breach of contract claim against county.