

Bond Case Briefs

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EMINENT DOMAIN - MONTANA

Wohl v. City of Missoula

Supreme Court of Montana - November 25, 2014 - P.3d - 2014 MT 310

Abutting landowners brought action against city arising out of dispute concerning the width of public right-of-way constituting avenue. Following a bench trial, the District Court determined the width of the right-of-way, and awarded landowners compensation for a taking, plus a portion of requested costs and fees. City appealed, and landowners cross-appealed.

The Supreme Court of Montana held that District Court's decision to award landowners appellate attorney fees as prevailing parties was not precluded by the law of the case doctrine.

In an inverse eminent domain action brought by landowners against city, trial court's decision to award landowners appellate attorney fees as prevailing parties was not precluded by the law of the case doctrine, even though the Supreme Court refused to award fees in its order on rehearing. In its rehearing order, the Supreme Court did not pronounce a principle or rule of law necessary to the decision, but rather, simply observed that it had not expressly awarded attorney fees in a prior decision and declined to do so again, and the rehearing order did not address the substantive question of whether the landowners were entitled to appellate attorney fees.