

Bond Case Briefs

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INVERSE CONDEMNATION - OHIO

Sommer v. Ohio Dept. of Transp.

Court of Appeals of Ohio, Tenth District, Franklin County - December 23, 2014 - Slip Copy - 2014 -Ohio- 5663

The construction of new west-bound lanes of a bridge project by the Ohio Department of Transportation (ODOT) “required the driving of steel beams, called piles, down 180-200 feet to bedrock” to support the new bridge.

Homeowners filed a complaint against ODOT, alleging that the work on the bridge project resulted in “extreme noise, pounding and vibrations * * * separate and distinct from that experienced by other affected properties,” and causing appellants’ home to be uninhabitable. The complaint alleged causes of action for inverse condemnation, as well as public and private nuisance.

The Court of Claims of Ohio granted summary judgment in favor of ODOT and homeowners appealed. Homeowners contended that the Court of Claims erroneously interpreted Ohio law to require a physical invasion of their property or a total denial of access, and that genuine issues of material fact remained as to whether ODOT substantially interfered with the use and enjoyment of their property.

The Court of Appeals affirmed, finding that the evidence submitted by homeowners on summary judgment did not create a genuine issue of material fact as to whether the actions of ODOT constituted a substantial interference with appellants’ dominion and control of their property giving rise to a compensable takings claim.