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INVERSE CONDEMNATION - CALIFORNIA

Honchariw v. County of Stanislaus

Court of Appeal, Fifth District, California - June 3, 2015 - Cal.Rptr.3d - 2015 WL 3504816

Landowner contended that the trial court erred when it applied the 90-day statute of limitations contained in Government Code section 66499.371 to his inverse condemnation action and concluded the action was untimely. Landowner argued that California law allowed him to postpone bringing a complaint for just compensation until after he successfully challenged the local government's land use decision in a mandamus proceeding.

The Court of Appeal affirmed the trial court's ruling that the 90-day statute of limitation in section 66499.37 applied to the inverse condemnation action.

While the court agreed that a land owner may elect to pursue a damage claim for an unconstitutional taking after a mandamus proceeding results in a final judgment, the initial mandamus action must result in "a final judgment establishing that there has been a compensable taking of the plaintiff's land."

Here, the landowner's mandamus action did not seek or establish that an unconstitutional taking occurred when the county denied his subdivision application. Therefore, the landowner did not qualify for the two-step procedure identified in *Hensler*. As a result, the unconstitutional taking claim in his inverse condemnation action was time barred under section 66499.37.