

Bond Case Briefs

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EASEMENTS - VIRGINIA

Marble Technologies, Inc. v. Mallon

Supreme Court of Virginia - June 4, 2015 - S.E.2d - 2015 WL 3505097

Property owners brought declaratory judgment action against business, seeking determination that coastline easement moved with the mean high water line as the beach eroded. The Circuit Court ruled that property owners had variable express easement that moved with mean high water line. Business appealed.

The Supreme Court of Virginia held that deed and map unambiguously fixed the easement at the specific location indicated on the map, and thus easement was extinguished by erosion of beach.

Deed distributing land subject to easement, and map depicting the easement as a 20-foot road along coastline, unambiguously fixed the easement at the specific location indicated on map, and thus easement was extinguished for being submerged under water by erosion of coastline over time. Map depicted easement as existing along "present" mean high water, which meant the line as it existed when the map was created, map utilized metes and bounds and a stationary marker to show easement's location, and nothing on the map or in the deed indicated that the easement was to move with the changing coastline.