

# **Bond Case Briefs**

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## **EMINENT DOMAIN - GEORGIA**

### **Fincher Road Investments, LLLP v. City of Canton**

**Court of Appeals of Georgia - November 13, 2015 - S.E.2d - 2015 WL 7042602**

City filed petition for condemnation and declaration of taking with respect to property owned by landowner. Landowner filed petition to set aside declaration of taking which the superior court denied. On interlocutory appeal, the Court of Appeals remanded for hearing on merits of petition. On same day remittitur was issued, city filed notice to dismiss its condemnation action. The Superior Court determined landowner was entitled to attorney fees and costs but was not entitled to any other compensation. Landowner applied for interlocutory appeal.

The Court of Appeals held that landowner was entitled to attorney fees and costs, as well as just compensation for the temporary taking.

While city's abandonment of its condemnation action undoubtedly entitled landowner to attorney fees and costs under statute governing reimbursement of condemned owner's costs and expenses, city's abandonment and obligation to pay those statutory damages in no way relieved it of the duty to provide just and adequate compensation for the period during which the taking was effective. Given the timing of the city's dismissal, trial court had not made a determination on issue of compliance and actually exercised its authority to set aside, vacate, or annul the declaration of taking.