

Bond Case Briefs

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EMINENT DOMAIN - CALIFORNIA

Young's Market Company v. Superior Court

Court of Appeal, Fourth District, Division 1, California - November 19, 2015 - Cal.Rptr.3d - 2015 WL 7302204

School district petitioned for a right of entry against adjacent landowner – pursuant to the Eminent Domain Law – for the purpose of taking soil samples to assess the possibility of acquiring the property by eminent domain. The Superior Court granted petition. Landowner petitioned for writ of mandate, prohibition, or other appropriate relief.

The Court of Appeal held that:

- Order granting right of entry to take samples was within the scope of the entry statutes, and
- Order granting right of entry to take samples did not amount to a taking under the federal and state constitutions.

Trial court's order granting school district's petition for a right of entry against the owner of a building containing an indoor cart racing center, to assess the possibility of acquiring the property by eminent domain by boring holes in the ground and taking samples of soil and building materials, was within the scope of the Eminent Domain Law entry statutes.

Trial court's order granting school district's petition for a right of entry against landowner, to assess the possibility of acquiring the property by eminent domain by boring holes in the ground and taking samples of soil and building materials, did not amount to a taking under the federal and state constitutions, since the challenged activities constituted a temporary and incidental disruption which did not affect the property's suitability for its uses as a parking lot and indoor cart racing center.