

# **Bond Case Briefs**

*Municipal Finance Law Since 1971*

---

## **EMINENT DOMAIN - SOUTH CAROLINA**

### **South Carolina Dept. of Transp. v. Powell**

**Court of Appeals of South Carolina - December 9, 2015 - S.E.2d - 2015 WL 8323392**

On August 27, 2010, the South Carolina Department of Transportation (SCDOT) filed a notice of condemnation acquiring 0.183 acres of a 2.51 acre tract of unimproved land owned by David Powell. The acquisition occurred in conjunction with a highway improvement project involving nearby Highway 17. SCDOT offered Powell \$72,000 for the condemned property. Powell rejected SCDOT's offer and requested a jury trial to determine just compensation.

The Circuit Court entered summary judgment for Department, finding that Powell was not entitled to any compensation Powell appealed.

The Court of Appeals affirmed, holding that any diminution in value of landowner's property as a result of the change in road access was not compensable.

Any diminution in value of landowner's property as a result of the change in road access was not compensable in condemnation case involving Department of Transportation, which condemned portion of landowner's property as part of its overall road project. Any damage to the remainder of landowner's property as a result of the closure of the intersection of road and highway was not compensable, and landowner had not lost his right of ingress or egress to and from his property.

In condemnation context, landowner has no vested rights in the continuance of a public highway and in the continuation of maintenance of traffic flow past his property.

The taking of part of landowner's property by Department of Transportation was only an incidental result of the closure of highway's intersection and was not indispensable to and inseparable from overall highway project, and thus landowner was not entitled to compensation for loss of access to remainder of his property. Property was taken to round intersection of road and a second highway, and taking of landowner's property was not a substantial part of overall project given that Department could have closed intersection without taking part of landowner's property.