

# **Bond Case Briefs**

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## **EMINENT DOMAIN - PENNSYLVANIA**

### **In Re Condemnation by Com., Dept of Transp.**

**Commonwealth Court of Pennsylvania - January 29, 2016 - A.3d - 2015 WL 9942103**

Department of Transportation filed declaration of taking. Landowner filed preliminary objections arguing that Department's declaration of taking was untimely filed under the Eminent Domain Code. The Court of Common Pleas sustained landowner's preliminary objections, and Department appealed.

The Commonwealth Court held that:

- Section of the Eminent Domain Code, stating that condemnor shall file within one year of the action authorizing the declaration of taking a declaration of taking, cannot be interpreted or enforced as though it were a statute of limitation;
- Nothing in the Administrative Code or the Eminent Domain Code prohibited Department from starting the condemnation process over by its Secretary authorizing a revised plan or the original plan again; and
- Failure to file a declaration of taking within the one-year time period set forth in Eminent Domain Code results in the original declaration lapsing; overruling *In re Redevelopment Authority of City of Allentown*, 31 A.3d 321.