

Bond Case Briefs

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INVERSE CONDEMNATION - MARYLAND

Litz v. Maryland Dept. of Environment

Court of Appeals of Maryland - January 22, 2016 - A.3d - 2016 WL 280947

Former property owner brought action against Maryland Department of the Environment, town, and county alleging trespass, negligence, nuisance, and inverse condemnation in regards to pollution of lake located on property. The Circuit Court granted motions to dismiss. Owner appealed.

The Court of Appeals held that:

- As a matter of apparent first impression, an inverse condemnation claim is pleaded adequately where a plaintiff alleges a taking caused by a governmental entity's or entities' failure to act, in the face of an affirmative duty to act;
- Owner's complaint sufficiently stated a cause of action for inverse condemnation;
- Claim for inverse condemnation is not covered by notice provisions of either tort claims act; but
- Tort of trespass is subject to the notice requirement of Local Government Tort Claims Act.

Property owner's complaint sufficiently stated a cause of action for inverse condemnation by alleging that failure of state, Department of the Environment, county, and town to address pollution and sewage problems led directly to the substantial devaluing of her property, on which she had operated a popular lake-front recreational campground, and its ultimate loss through foreclosure.