

# **Bond Case Briefs**

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## **PROPERTY - WASHINGTON**

### **Holmquist v. King County**

**Court of Appeals of Washington, Division 1 - February 8, 2016 - P.3d - 2016 WL 513178**

Property owners brought quiet title action against county, in which city later intervened, asserting ownership of land underlying a vacated public highway between owners' two lots. The Superior Court entered summary judgment in favor of owners. County and city appealed, and city filed notice of supersedeas without bond. The Court of Appeals affirmed. Owners filed motion to award damages resulting from city's decision to supersede the judgment quieting title. The Superior Court denied the motion, and owners appealed.

The Court of Appeals held that:

- City was potentially liable for damages for supersession of enforcement of judgment;
- Property owners were damaged by city's supersession of the judgment due to loss of exclusive use of the property; and
- Rental value of property, as calculated using city's own formula for renting comparable properties, was appropriate measure of damages.

City was potentially liable for damages to property owners for supersession of enforcement of judgment quieting title in owners, where city was statutorily exempt from posting a supersedeas bond, city took advantage of this exemption by filing a notice of supersedeas without bond, and city's appeal was unsuccessful.

Property owners who prevailed in quiet title action against city were damaged by city's supersession of the judgment while on appeal due to loss of exclusive use, and thus were entitled to damages. While appeal was pending and judgment was superseded, public was allowed to continue using the property as a public beach.

Rental value of property, as calculated using city's own formula for renting comparable properties, was appropriate measure of property owners' damages which resulted from city's supersession of trial court's judgment quieting title in owners, even if they did not intend to rent the property and the city, which did not obtain supersedeas bond, did not have notice owners would seek to recover damages based on the property's rental value.

Property owners who were entitled to rental value of property as damages for city's supersession of trial court's judgment quieting title in owners while judgment was on appeal, were not entitled to additional damages equal to the benefits city received by physically appropriating the property as a public beach, as city's use of the property as a public beach and the owners' inability to exclude others from using the property were opposite sides of the same coin such that additional damages would amount to a double recovery for property owners' inability to exclude others from the property.

