

Bond Case Briefs

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EMINENT DOMAIN - COLORADO

Town of Silverthorne v. Lutz

Colorado Court of Appeals, Div. VI - February 11, 2016 - P.3d - 2016 WL 611657 - 2016 COA 17

Town filed a petition in condemnation to acquire easement rights over strip of land to construct trail for nonmotorized transportation. After jury trial, the District Court awarded compensation. Landowners appealed.

Holdings: The Court of Appeals held that:

- Landowners did not waive any challenge to town's condemnation proceeding by failing to timely file an answer, but
- Existence of constitutional amendment forbidding a recipient of funds from the Great Outdoors Colorado Program (GOCO) from using its funds to acquire property by condemnation did not allow landowners to present evidence of source of funding for town's trail project.

Landowners did not waive any challenge to town's condemnation proceeding by failing to timely file an answer. Town did not explain how the relatively short delay caused it any prejudice, and landowners' jury demand, filed within the twenty-one day period for an answer, as well as the parties' long history of conflict concerning land that was subject of condemnation, placed town on notice that landowners intended to contest condemnation.

Existence of constitutional amendment forbidding a recipient of funds from the Great Outdoors Colorado Program (GOCO) from using its funds to acquire property by condemnation did not allow landowners to present evidence of source of funding for town's trail project, in a condemnation proceeding for construction of nonmotorized transportation trail by town which received funds under GOCO. Such collateral matters could not be heard in a condemnation proceeding.

Town's offer of \$400,000 to landowners in pre-condemnation negotiations did not demonstrate bad faith on part of town in such negotiations, despite argument that offer was less than the \$500,000 that town had received from Great Outdoors Colorado Program (GOCO) for trail project for which easement condemnation was sought, where offer exceeded actual value of easement rights as determined at trial.