

Bond Case Briefs

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EMINENT DOMAIN - UTAH

Salt Lake City Corp. v. Evans Development Group, LLC

Supreme Court of Utah - March 24, 2016 - P.3d - 2016 WL 1178396 - 2016 UT 15

City brought condemnation proceedings against property owner, seeking condemnation so that property could be exchanged for another piece of property owned by public utility company. The Third District granted summary judgment in favor of city. Property owner appealed.

The Supreme Court of Utah held that:

- Statute providing that railroad was public use for which condemnation was permitted did not authorize city to condemn property, and
- Condemnation of property for utility company to build substation violated statutory requirement that city, as condemnor, remain in charge of public use.

Eminent domain statute providing that property could be condemned for railroads and street railways for public transportation did not authorize city to condemn owner's property so that it could exchange that property for another property owned by public utility company, though purpose of exchange agreement was so that city could conduct railroad realignment project on utility company's property. City had to satisfy public use requirement on property subject to condemnation, and though eminent domain statute might provide authority for city to condemn utility company's property for railroad, it did not authorize city to condemn owner's property.

City's condemnation of owner's property pursuant to exchange agreement, under which city was to condemn property and exchange it for another piece of property owned by public utility company so that utility company could build electrical substation on condemned property, violated statutory requirements that the city, as condemnor, be in charge of the public use to which property would be put and oversee construction of that use. City was sole condemnor, but it was utility company that was to be in charge of public use of building and operate electrical substation, and that arrangement would leave owner without recourse to bring action against city to recover property if substation was not built within reasonable time.