

Bond Case Briefs

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Graham v. Town of Latta, South Carolina

Court of Appeals of South Carolina - March 30, 2016 - S.E.2d - 2016 WL 1239752

Homeowners filed suit against town after municipal sewer system backed up, overflowed, and flooded their property, raising claims for negligence, inverse condemnation, and trespass.

The Circuit Court entered a directed verdict on claims for inverse condemnation and trespass, and the jury returned a verdict in favor of homeowners. Town appealed, and homeowners cross-appealed.

The Court of Appeals held that:

- Town was not entitled to discretionary immunity;
- Evidence supported inference that town failed to exercise due care in the operation and maintenance of its sewer system;
- Evidence support amount awarded for damages to real property;
- Evidence supported amount awarded for damages to personal property;
- Release of sewage did not constitute an inverse condemnation; and
- Release of sewage did not constitute a trespass.

Evidence supported finding that town's choice to do nothing about leaking sewer pipe was not the product of weighing competing considerations and making a conscious choice, as would establish discretionary immunity under South Carolina Tort Claims Act in homeowner's negligence action brought after municipal sewer system backed up, overflowed, and flooded their property. There was no expert testimony indicating the town actually weighed the competing considerations when confronted with the problem, or that the town utilized accepted professional standards in choosing to do nothing.