

# **Bond Case Briefs**

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## **EASEMENTS - MASSACHUSETTS**

### **Melrose Fish and Game Club, Inc. v. Tennessee Gas Pipeline Co., LLC**

**Appeals Court of Massachusetts, Middlesex, June 20, 2016--- N.E.3d ----89 Mass.App.Ct. 5942015 WL 11023788**

Fish and game club brought trespass action against gas pipeline company, alleging interference with an easement. Club and company filed cross motions for summary judgment.

The Superior Court Department granted company's motion and denied club's. Club appealed.

The Appeals Court held that:

- Company was estopped from denying existence of club's easement;
- Approval of a plan to pave part of a paper street did not frustrate the purpose of club's easement;
- Club's easement was not extinguished by planning board's approval of subdivision plan; and
- Club's action was not barred by laches.

Pipeline company was estopped from denying existence of fish and game club's easement of way over paper street across which company had built a natural gas pipeline facility. Lots owned by company and club had a common grantor, and recorded deed and plans clearly indicated that the club lots abutted the paper street.

Approval of a plan to pave part of a paper street did not frustrate the purpose of fish and game club's easement over a portion of the unpaved portion of the paper street across which gas pipeline company had built a natural gas pipeline facility, as would extinguish club's easement. Paving of a portion of a paper street did not make it impossible to pave more of it later.

Fish and game club's easement over paper street across which pipeline company had built a natural gas pipeline facility was not extinguished by planning board's later approval of subdivision plan which provided for paving a different part of the paper street. Decision to pave part of the paper street did not extinguish private easement rights in rest of the street, subdivision plan approvals could not act as a taking, and plan did not relate at all to club's lots.

Gas pipeline company was not prejudiced by fish and game club's 15-year delay in bringing trespass claim against company for company's interference with the club's easement over a paper street across which company had constructed a natural gas pipeline facility, and therefore, doctrine of laches did not apply. Company did not explicitly identify a detrimental change in its position or an injury to its legal rights resulting from club's delay, and the cost of building the facility and maintaining it were not the result of club's delay.