

Bond Case Briefs

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EMINENT DOMAIN - KANSAS

Water District No. 1 of Johnson County v. Prairie Center Development, L.L.C.

Supreme Court of Kansas - June 10, 2016 - P.3d - 2016 WL 3344661

Owners of roadway easement appealed condemnation award of water main easement to county water district and filed motion to void condemnation based on district's failure to name owners in petition against landowners and to give notice.

The District Court denied motion. Owners appealed.

The Supreme Court of Kansas held that:

- Trial court had subject matter jurisdiction to consider roadway easement owners' argument of statutory defect;
- Petition was valid on its face without including roadway easement and its owners; and
- Owners invited alleged error in consideration of parol evidence.

Supreme Court could consider county water district's argument that district court lacked jurisdiction to consider claim of statutory defect in eminent domain petition that did not include or notify easement owners, even though district did not cross-appeal judgment against owners. District presented question of subject matter jurisdiction which could be raised at any time.

District court had subject matter jurisdiction to consider roadway easement owners' argument of statutory defect in county water district's eminent domain petition that sought water main and construction easements and did not include or notify roadway easement owners, even though they were not parties to proceeding and characterized their motion specifically as a motion to void. District court had to determine whether district took the owners' property interest in order to determine whether its petition was statutorily defective for failing to name the owners.

County water district's petition to condemn property for temporary construction easements and permanent water main easements subject to existing easements of record was valid on its face without including roadway easement and its owners. District never sought to take roadway easement, and owners could not prove statutory defect based on assertion that district would necessarily, at some point, interfere with their easement.

Alleged error by district court in considering parol evidence of county water district's project plan when denying motion by roadway easement owners to void condemnation was invited by owners' argument based on the plan that district would need to dig up road to install water main, and, thus, Supreme Court would not consider the error. Just as district could not use its plans to show how it would avoid interfering with the roadway easement, owners could not go outside petition's language to argue district would interfere with roadway easement.

