

# **Bond Case Briefs**

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## **EMINENT DOMAIN - COLORADO**

### **Department of Transportation v. Amerco Real Estate Company**

**Supreme Court of Colorado - September 26, 2016 - P.3d - 2016 WL 5375508 - 2016 CO 62**

State department of transportation brought petition in condemnation in connection with highway expansion project.

The District Court denied motion by owner and occupant of subject property to dismiss petition and granted department's motion for immediate possession of property. Owner and occupant petitioned for relief. The Supreme Court issued rule to show cause.

The Supreme Court of Colorado held that general authorization by transportation commission, to the extent it purported to delegate to transportation department the choice of particular properties to be taken for a project to alter a state highway and the manner of their taking, constituted an unlawful delegation of the commission's statutorily imposed obligation.

Commission's enabling legislation contemplated that it alone must decide whether the public interest or convenience would be served by a proposed alteration of a state highway, and that decision must be made in consideration of, among other things, the portions of land of each landowner to be taken for that purpose and an estimate of the damages and benefits accruing to each landowner whose land may be affected thereby.