

# **Bond Case Briefs**

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## **EMINENT DOMAIN - GEORGIA**

### **Stroud v. Hall County**

**Court of Appeals of Georgia - October 20, 2016 - S.E.2d - 2016 WL 6134088**

Landowners brought action against county, asserting claims of trespass, nuisance, and inverse condemnation. County moved for summary judgment.

The trial court granted the motion. Landowners appealed.

The Court of Appeals held that:

- Landowner's testimony in affidavit that county's maintenance of abutting road caused his property to flood was sufficient to create genuine issue of material fact;
- Genuine issues of material fact existed as to damages suffered by landowners;
- Landowners' claim of a continuing nuisance was not barred by statute of limitations; and
- Landowner's testimony in affidavit that county's maintenance activities destroyed his vegetation multiple times was sufficient to create genuine issue of material fact.

Testimony by landowner in affidavit that the elevation of an abutting road was increased by county's maintenance and that, consequently, flooding of his property had increased, was sufficient to create genuine issue of material fact as to causation in landowners' nuisance and trespass action against county, precluding summary judgment.

Genuine issues of material fact existed as to damages suffered by landowners allegedly as a result of county's maintenance of abutting road causing flooding on landowner's property, precluding summary judgment in landowners' nuisance and trespass action against county.

To the extent that landowners' nuisance claim against county was based on flooding caused by county's maintenance of abutting road, it was a claim of a continuing nuisance that was not barred by the statute of limitations, but to the extent that landowners alleged that the existence of the road itself was responsible for the flooding on the property, their claims were of a permanent nuisance and, as the road existed for much longer than four years, were barred by the statute of limitations.

Landowner's testimony in affidavit that county's maintenance activities on abutting road destroyed his vegetation multiple times was sufficient to create genuine issue of material fact as to landowners' trespass claim against county, precluding summary judgment.