

# **Bond Case Briefs**

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## **EMINENT DOMAIN - ALASKA**

### **State v. Alaska Laser Wash, Inc.**

**Supreme Court of Alaska - October 21, 2016 - P.3d - 2016 WL 6134788**

Owner of car wash brought inverse condemnation action against the State, claiming business damages resulting from State's acquisition of car wash site as part of highway improvement project.

Following jury trial, the Superior Court denied State's motion for directed verdict, entered jury verdict in favor of owner, and awarded attorney's fees and costs to owner. State appealed.

As matters of first impression, the Supreme Court of Alaska held that:

- Business owner may recover business damages when the State condemns the business only if it is not feasible for the business owner to relocate, and
- Relocation of car wash was "feasible," and thus, owner could not recover business damages, which owner claimed resulted from State's acquisition of the car wash.

A business owner may recover business damages when the State condemns the business only if it is not feasible for the business owner to relocate; if it is not feasible for a business owner to relocate, the State's taking is reasonably certain to have directly damaged the value of the business, requiring compensation.

Relocation of car wash that was taken by State as part of highway improvement project was "feasible," and thus, owner of car wash could not recover business damages, which owner claimed resulted from State's acquisition of the car wash, in inverse condemnation action against State, where owner had the ability to obtain financing to build another car wash, other available sites existed upon which to relocate the car wash, and new owners of owner's car wash business successfully built additional locations on the sites that owner considered for relocation.

In determining whether a business owner whose property was taken by the State may recover business damages since it was not feasible for the owner to relocate the business, "feasible" means capable of being accomplished or brought about and possible. Feasibility is a lower threshold than reasonableness.