

# **Bond Case Briefs**

*Municipal Finance Law Since 1971*

---

## **EMINENT DOMAIN - SOUTH DAKOTA**

### **State ex rel. Dept. of Transp. v. JB Enterprises, Inc.**

**Supreme Court of South Dakota - December 7, 2016 - N.W.2d - 2016 WL 7157632 - 2016 S.D. 89**

State instituted quick-take condemnation action.

The Circuit Court granted summary judgment to State. Owner appealed.

The Supreme Court of South Dakota held that:

- Owner did not agree to elimination of taking;
- State was not entitled to eliminate taking; and
- Owner was entitled to compensation for loss of its right to access highway.

Property owner did not agree to elimination of taking that was part of highway reconstruction project. Owner acknowledged change in scope of public improvement but never wavered from its position that State's public improvement caused compensable loss to property.

Under statute prohibiting abandonment of condemnation proceedings, State was not entitled to eliminate any actual taking by amending its petition to include revised plans for highway reconstruction.

Once title vests in the State following a declaration of taking, it is not permitted to reduce or abandon the interest acquired. It is merely permitted to minimize damage to the landowner's remaining property that results from being severed from the property actually taken.

In condemnation action, even if property owner still had ability to access highway from its property, it was entitled to compensation for loss of its right to do so as a result of State's taking.