

# **Bond Case Briefs**

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## **EMINENT DOMAIN - NORTH CAROLINA**

### **Wilkie v. City of Boiling Spring Lakes**

**Court of Appeals of North Carolina - December 30, 2016 - S.E.2d - 2016 WL 7976113**

Property owners brought inverse condemnation by the city after city raised level of a lake and caused flooding on their property.

The Superior Court entered an order concluding that property owners were entitled to damages from city's taking of their property, and city appealed.

The Court of Appeals held that:

- Appeal was properly before Court of Appeals;
- Action taken by city was not inverse condemnation; and
- Property owners had a direct claim against city under state constitution.

City's appeal of order that concluded that city had taken property through inverse condemnation when it raised the water level of a lake and flooded their property, was properly before Court of Appeals. Although the order was interlocutory, it was issued pursuant to the public condemnation statute, addressed the area taken by city, and affected a substantial right.

Action taken by city in which it raised water level in city owned lake, which resulted in the flooding of property owners' property, was not inverse condemnation, and thus property owners did not have remedy through an inverse condemnation action. City's action to raise lake water level was intended to benefit property owners whose lots bordered lake, which was a private, rather than public, use.

Property owners, who had their property flooded after city took measures to raise water level of city owned lake, had a direct claim against city under state constitution. Property owners had no adequate state law remedy, and alleged that the city caused the damage to their property, that city took property belonging to them, and that city affected their property rights in violation of their constitutional rights.