

Bond Case Briefs

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EMINENT DOMAIN - NORTH DAKOTA

Cossette v. Cass County Joint Water Resource District

Supreme Court of North Dakota - May 16, 2017 - N.W.2d - 2017 WL 2119428 - 2017 ND 120

Property owners brought action against county joint water resource district requesting declaratory relief and challenging district's resolution of necessity relating to intent to acquire interest in property owners' property through eminent domain.

The District Court dismissed complaint. Property owners appealed.

The Supreme Court of North Dakota held that:

- Property owners were not permitted to assert equitable claim for declaratory relief in administrative appeal, but
- Property owners were statutorily entitled to appeal from resolution of necessity.

Property owners were not permitted to assert equitable claim for declaratory relief in administrative appeal from county joint water resource district's resolution of necessity related to district's intent to acquire interest in property owners' property through eminent domain.

Property owners were "aggrieved" by county joint water resource district's resolution of necessity related to district's intent to acquire interest in property owners' property through eminent domain, and therefore property owners were statutorily entitled to appeal from resolution. Although resolution was only one part of eminent domain process, applicable statute allowed appeal from any water resource board order or decision relating to eminent domain, and resolution described the property and stated that district would proceed with eminent domain to acquire interest in the property.