

Bond Case Briefs

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INVERSE CONDEMNATION - NEBRASKA

Essink v. City of Gretna

Court of Appeals of Nebraska - September 19, 2017 - N.W.2d - 25 Neb.App. 53 - 2017 WL 4159584

Homeowners brought inverse condemnation action and a negligence action under the Political Subdivisions Tort Claims Act against city following two sanitary sewer backups into their homes.

The District Court entered judgment on jury verdict for homeowners on inverse condemnation claim and entered judgment in part for homeowners on Tort Claims Act claim. City appealed.

The Court of Appeals held that:

- Sewer backups were not intended or the foreseeable result of authorized governmental action, and thus were not a compensable taking, and
- Cleaning bills which homeowners delivered to city clerk's office pertaining to sewage backups did not demand the satisfaction of an obligation required by the Tort Claims Act.

Sewer backups were not intended or the foreseeable result of authorized governmental action, and thus were not a compensable taking of homeowners' property; backups were not frequent or recurring but occurred twice, several weeks apart, as a result of two blockages at different areas of the sewer system, and no other backups had occurred on street before that time.

Cleaning bills which homeowners delivered to city clerk's office pertaining to sewage backups did not demand the satisfaction of an obligation and thus did not constitute notice of claim under the Political Subdivisions Tort Claims Act; although the bills showed the dates the work was performed, the location of the work, the water damage reason for the work, and the specific amount owed for such work, the bills were addressed to homeowners, which indicated they were responsible for payment of the bills, and bills did not allege that city caused the water damage, refer to sewer backups, or indicate why city would be responsible for the bills, but only indicated that homeowners would be submitting them to the city for payment.