

Bond Case Briefs

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EMINENT DOMAIN - PENNSYLVANIA

York OPA, LLC v. Commonwealth , Department of Transportation

Commonwealth Court of Pennsylvania - March 20, 2018 - A.3d - 2018 WL 1385848

Condemnee filed petition for appointment of board of viewers, asserting inverse condemnation claim against Department of Transportation (DOT).

The Court of Common Pleas overruled DOT's preliminary objections and entered judgment in favor of condemnee, finding de facto taking. DOT appealed.

The Commonwealth Court held that:

- Condemnee did not waive its right to bring inverse condemnation action, despite failing to file preliminary objection to declaration of taking;
- Genuine issue of material fact existed as to whether portion of land was owned by township or condemnee; and
- Trial court lacked subject matter jurisdiction to determine title of property.

Condemnee did not waive its right to bring inverse condemnation action against condemnor, despite failing to file preliminary objection to declaration of taking, where declaration misidentified portion of land as existing right-of-way already owned by condemnor rather than land owned by condemnee, resulting in alleged taking of such portion without compensation.

Genuine issue of material fact existed as to whether portion of land was owned by township or condemnee, precluding determination of whether condemnee had standing to bring de facto taking claim.

In inverse condemnation proceeding, trial court lacked subject matter jurisdiction to determine title of property to which Department of Transportation and condemnee claimed ownership, since Board of Property had exclusive jurisdiction over such issue.