

# **Bond Case Briefs**

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## **EMINENT DOMAIN - FLORIDA**

### **Chmielewski v. City of St. Pete Beach**

**United States Court of Appeals, Eleventh Circuit - May 16, 2018 - F.3d - 2018 WL 2225053**

Owners of beachfront property brought § a 1983 action against city, alleging that city encouraged and invited access to property by the general public, causing an illegal seizure in violation of their Fourth Amendment rights, and a taking without just compensation in violation of the state constitution.

The United States District Court denied city's motion for judgment as a matter of law, and subsequently entered judgment on the jury verdict, and awarded \$1,489,700 in damages. City appealed.

The Court of Appeals held that:

- Evidence was sufficient to support takings claim, under Florida law, and
- City was not entitled to transfer of fee title to beachfront property.

Evidence was sufficient to prove that city encouraged and invited access and use by the general public of owners' beachfront property, supporting judgment in favor of owners, in takings claim against city, under Florida law; the testimony and other evidence presented showed that the city placed beach access signs, cleared vegetation around the parcel, created nearby parking spaces, hosted events at the property, and refused to remove trespassers from the property.

City was not entitled to transfer of fee title to beachfront property, upon jury verdict in favor of property owners and award of damages in the amount of \$1,489,700, in takings claim against city, under Florida law; jury did not find that city had affected a physical taking of the entire beachfront parcel, but that the city's actions in encouraging general public access gave members of the public a permanent and continuous right to pass across the parcel, which was in the nature of an easement, and the damages award was based on appraisal which determined the loss of the value to the owners' property as a result of the easement-type taking.