

Bond Case Briefs

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EMINENT DOMAIN - WASHINGTON

Central Puget Sound Regional Transit Authority v. WR-SRI 120th North LLC

Supreme Court of Washington - August 2, 2018 - P.3d - 2018 WL 3655879

City brought four actions against regional transit authority to contest authority's condemnation of city's electrical transmission line easements.

The Superior Court ruled in favor of authority and entered public use and necessity judgments. City appealed, and the parties' request for consolidation was granted.

The Supreme Court of Washington held that:

- Authority had power to condemn city-owned property;
- Authority's condemnation of city's easements met public use and necessity requirements;
- Prior public use doctrine applied to limit authority's ability to condemn city's easements;
- Substantial evidence did not support finding that authority's use was compatible with city's use; and
- When two public uses are incompatible, remedy is restricting prospective use to an extent that it is compatible with current use, abrogating *State ex rel. Washington Boom Co. v. Chehalis Boom Co.*, 82 Wash. 509, 144 P. 719.

Transit authority had power to condemn property owned by city, including electrical transmission line easements, as such power was express or, at the least, necessarily implied by statutes; authority was granted the power to acquire by condemnation "all" lands, rights-of-way, and property necessary to build light rail system, and legislature implied right to condemn city property by specifically requiring consent only to acquire city's public transportation facilities.

Transit authority's condemnation of city's electrical transmission line easements to build light rail system met public use and necessity requirements; public transportation was a public use, there was no evidence of fraud or arbitrary and capricious conduct by legislature's determination of necessity, and authority adopted resolutions authorizing condemnation as needed for extension of light rail system.

City's easements that were previously acquired for purpose of distributing electricity, but some of which were not currently being used for that purpose, were being put to public use, and thus transit authority's ability to condemn city's easements was limited by prior public use doctrine; even though easements were acquired 86 years prior and there were no immediate plans to begin building transmission lines on currently unused easements, electrical utilities had to plan long term for future needs, and there were complex logistics to building electric transmission corridor.

Substantial evidence did not support trial court's finding that transit authority's use of property to build light rail system was compatible with city's prior public use of holding property for future electrical transmission lines, and thus prior public use doctrine may have limited authority's condemnation of city's property; authority and city submitted competing declarations, there was no

trial for court to weigh credibility of competing declarations, and issue of compatibility was highly technical and there was a factually correct answer.

In situations where the prior public use doctrine applies and the two public uses on the property to be condemned are found to be incompatible with one another, the remedy is an order that the prospective public use be restricted to an extent that the current public use would be compatible with it; abrogating *State ex rel. Washington Boom Co. v. Chehalis Boom Co.*, 82 Wash. 509, 144 P. 719.