

Bond Case Briefs

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EMINENT DOMAIN - CALIFORNIA

Black v. City of Rancho Palos Verdes

Court of Appeal, Second District, Division 1, California - September 6, 2018 - Cal.Rptr.3d - 2018 WL 4275238 - 18 Cal. Daily Op. Serv. 9019

Owners of lots near landslide area filed petition for writ of mandamus and complaint, seeking relief from building moratorium and damages for inverse condemnation.

The Superior Court entered judgment for city, and landowners appealed.

The Court of Appeal held that:

- Lot owners failed to establish futility exception to the exhaustion of remedies requirement, and
- Application expense did not excuse lot owners from utilizing administrative process prior to bringing action.

Owners of lots in landslide area failed to establish that applications to build residences would have been futile, and thus failed to establish futility exception to the exhaustion of remedies requirement in action seeking relief from building moratorium and damages for inverse condemnation; while one lot owner had sought permission to build on her property, there was no showing as to whether city approved or denied that application, record contained no decisions by the city council on the ultimate question of whether anyone might build on a property located in landslide zone, and all statements the record were elicited after the lot owners had already filed suit.

Expense of applying for an exclusion from city's building moratorium in landslide area did not excuse lot owners from utilizing administrative process prior to bringing action seeking relief from building moratorium and damages for inverse condemnation; while lot owners would have paid fees to hire architects and engineers, such expenses were not unusual in the process of acquiring a building permit, and alleged cost to essentially "dig out" of landslide was a building cost, not an application cost.