

Bond Case Briefs

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EMINENT DOMAIN - WEST VIRGINIA

West Virginia Department of Transportation, Division of Highways v. Echols

Supreme Court of Appeals of West Virginia - April 12, 2019 - S.E.2d - 2019 WL 1590693

Landowners, after the state Department of Transportation brought condemnation proceedings for a road project, brought counterclaim for inverse condemnation.

The Circuit Court certified questions.

The Supreme Court of Appeals held that:

- When the Department of Transportation, Division of Highways, initiates a condemnation proceeding that involves a partial taking of land in connection with a highway construction project that is subject to the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act, the question of whether the residue has become an “uneconomic remnant” is a question to be determined exclusively by the Commissioner of Highways;
- When the Department of Transportation, Division of Highways, initiates a condemnation proceeding that involves a partial taking of land in connection with a highway construction project, and when, as a result of the project, the residue is rendered landlocked by the destruction of the preexisting public road access, the Division of Highways may, without the landowner’s consent, mitigate the damage to the residue by ensuring that the work performed by the Division of Highways is completed or revised in a manner that assures reasonable public road access thereto; and
- When the Department of Transportation, Division of Highways, initiates a condemnation proceeding that involves a partial taking of land in connection with a highway construction project, and when, as a result of the project, a residue tract that is not needed by the State for public road purposes has been rendered landlocked, the trial court cannot require the Division of Highways to acquire the landlocked residue by condemnation.