Bond Case Briefs

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EMINENT DOMAIN - CALIFORNIA

Pacific Shores Property Owners Assn. v. Department of Fish & Wildlife

Court of Appeal, Third District, California - January 20, 2016 - 244 Cal.App.4th 12 - 198 Cal.Rptr.3d 72 - 16 Cal. Daily Op. Serv. 830

Owners of undeveloped subdivision along lagoon's shore, whose properties suffered flooding damage when lagoon rose above certain level, filed inverse condemnation action against Department of Fish and Wildlife and Coastal Commission, alleging owners suffered a physical taking from Department's actions related to breaching lagoon's sandbar, and a regulatory taking by Commission retaining land use jurisdiction over subdivision instead of transferring it to county.

The Superior Court found Department and Commission liable for physical taking and awarded damages, but concluded owners' claim for regulatory taking was barred, awarded owners attorney fees, and denied owners any precondemnation damages. All parties appealed.

The Court of Appeal held that:

- Commission's approval of permit to breach sandbar triggered period in which owners were permitted to file writ petition challenging permit;
- Statute governing period in which aggrieved person was permitted to file writ petition applied to Commission's approval of permit and owners' inverse condemnation action;
- Inverse condemnation action against Department accrued when Department adopted management plan for lagoon;
- Department was liable for physical taking under theory of strict liability;
- Department actions related to breaching sandbar were unreasonable;
- Administrative jurisdiction exception to doctrine of exhaustion of remedies did not apply to regulatory taking claim asserted against Commission;
- Evidence supported determination that owners were not entitled to precondemnation damages; and
- Trial court properly limited attorney fees to amount owners agreed to pay under contingency agreement.