

# **Bond Case Briefs**

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## **EMINENT DOMAIN - CALIFORNIA**

### **Locklin v. City of Lafayette**

**Supreme Court of California, In Bank - February 28, 1994 - 7 Cal.4th 327 - 867 P.2d 724 - 27 Cal.Rptr.2d 613**

Owners brought inverse condemnation, negligence, and trespass claims against city, county, flood control district, and other public entities for damage to their creekside properties through storm water runoff.

The Superior Court granted defendants' motions for summary judgment on inverse condemnation cause of action, nonsuit on tort causes of action, and entered judgment for city on liability from maintenance of two structures within creek.

The Court of Appeal affirmed. Review was granted, superseding opinion of Court of Appeal. The Supreme Court held that: (1) defendants did act unreasonably in constructing improvements or altering discharge of surface water runoff; (2) damage to owners' property did not result from unreasonable conduct supporting liability in inverse condemnation; (3) creek did not become public work as required for liability in inverse condemnation; and (4) owners could be assessed costs for action maintained in good faith without evidentiary or legal support.

Owner in lower reaches of natural watercourse whose conduct has relatively minor impact on stream flow in comparison with combined effect of actions by owners in upper reaches of watercourse may not be held liable for any damage caused by stream flow beyond proportion attributable to such conduct.

Governmental entities were not liable in inverse condemnation for damage caused by discharge of surface water runoff from property which they had improved into natural watercourse, where improvements to property were not unreasonable.

Creek did not become public work or improvement, but remained privately owned natural watercourse, though city occasionally assisted residents by removing fallen trees from creek, and other public entities constructed culvert in creek to support roadbed, where no governmental entity exerted control over watercourse to incur liability for damages caused by streamflow.

City was not liable to downstream property owners for damages from increased runoff, where city's improvements from paving streets and manner of collecting and discharging surface water runoff into creek were not unreasonable.

Governmental entity does not have to bear expense of all litigation by property owners who in good faith, but without sufficient evidentiary or legal support, claim damage to their property.