

Bond Case Briefs

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HIGHWAYS - VERMONT

Fortieth Burlington, LLC v. City of Burlington

Supreme Court of Vermont - June 19, 2020 - A.3d - 2020 WL 3396444 - 2020 VT 45

Owner of real property abutting highway filed petition and complaint alleging that necessity hearing and resulting decision to acquire property and lay out new section of road were void because city did not comply with statutory notice requirements.

Superior Court granted city's motion for summary judgment, and property owner appealed.

The Supreme Court held that owner did not have a "legal interest of record in the property affected" as required for standing to appeal.

Owner of land which abutted highway did not have a "legal interest of record in the property affected" as required for standing to appeal city's decision regarding the necessity of highway construction project, which included obtaining temporary and permanent easements, as owner did not have an interest in any property through which the highway was laid out.

Necessity hearing regarding acquisition of easements for road construction project was informational and not quasi-judicial, and thus abutting landowner did not have due process right to present evidence and testimony or to provide cross-examination; necessity hearing was not a contested hearing that entitled participants to evidentiary requirements, like presenting evidence or conducting cross-examination, and statute required only that a municipality must examine premises and hear any interested parties.

Even accepting that owner of property abutting road construction project was entitled to notice of necessity hearing regarding acquisition of easements, which did not include owner's property, city's failure to provide that notice was not an error of jurisdictional magnitude, where city provided general notice and landowner actually participated in the proceeding.