

Bond Case Briefs

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EMINENT DOMAIN - NORTH DAKOTA

City of Fargo v. Wieland

Supreme Court of North Dakota - July 22, 2020 - N.W.2d - 2020 WL 4199567 - 2020 ND 170

City brought eminent domain action, seeking to acquire landowner's property for flood protection purposes.

The District Court granted partial summary judgment, concluding that permanent flood protection was public use authorized by law and that the taking of landowner's property was necessary to the use, and following a trial, jury awarded landowner \$850,000 as just compensation for the taking. Landowner appealed, and the Supreme Court affirmed. Landowner thereafter moved for payment of the original amended judgment that had been deposited by the city in court, plus any accrued post-judgment interest. The District Court denied post-judgment interest, and landowner appealed.

The Supreme Court held that:

- Supreme Court's prior affirmance did not preclude landowner's subsequent request for post-judgment interest;
- Statute allowing court to order possession upon deposit of full amount of judgment does not provide for the accrual of post-judgment interest subsequent to the deposit; and
- Statute regarding payment of money into court at risk of plaintiff does not require the accrual of interest on the post-judgment deposit of the full amount.

Under law of the case doctrine, Supreme Court's prior affirmance of judgment in eminent domain action without remand did not preclude landowner's subsequent request for post-judgment interest; Supreme Court recognized the open issue of whether a landowner who appeals an award in eminent domain proceedings, in lieu of accepting or withdrawing deposited funds, is entitled to the payment of post-judgment interest, and, at time of prior appeal, district court had not been asked to consider whether the accrual of post-judgment interest was authorized by statute.

Eminent domain statute allowing court to order possession upon deposit of full amount of judgment does not provide for the accrual of post-judgment interest subsequent to a deposit of the full amount of the judgment by the political subdivision.

Eminent domain statute regarding payment of money into court at risk of plaintiff, which allocates risk of loss to the political subdivision and provides that payment of money to court does not release the subdivision "from liability to keep the said fund full and without diminution," does not require the accrual of interest on the post-judgment deposit of the full amount of the judgment made by the political subdivision.