

# **Bond Case Briefs**

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## **EMINENT DOMAIN - MASSACHUSETTS**

### **Town of Sudbury v. Massachusetts Bay Transportation Authority**

**Supreme Judicial Court of Massachusetts, Suffolk - September 22, 2020 - N.E.3d - 485 Mass. 774 - 2020 WL 5640524**

Town brought declaratory judgment action against Massachusetts Bay Transportation Authority (MBTA), seeking to preclude MBTA from entering into option agreement with private electric company for easement to install electric transmission line underneath disused right of way extending through town.

The Land Court Department granted defendants' motion to dismiss. Town appealed.

After transfer of case, the Supreme Judicial Court held that electric company's proposed use of right of way was not a public use, and therefore doctrine of prior public use did not preclude MBTA from entering into option agreement for easement underneath right of way.

Privately-owned electric company's proposed use of right of way owned by Massachusetts Bay Transportation Authority (MBTA), and currently used by public, to construct and operate underground transmission line was not a public use, and therefore doctrine of prior public use did not preclude MBTA from entering into option agreement with company for easement to install electric transmission line underneath right of way; company would pay taxes on transmission line as an asset and was entitled to earn a profit on its investment through rates.