

Bond Case Briefs

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EMINENT DOMAIN - NEW MEXICO

City of Albuquerque v. SMP Properties, LLC

Supreme Court of New Mexico - February 25, 2021 - P.3d - 2021 WL 732243

City filed complaint for condemnation to acquire commercial property on which city wanted to build a road, and after city was granted possession and right to work on the property, the commercial property owners argued in their answer that \$143,850 city had deposited with court was not just compensation and that city's actions caused owners' tenant not to renew its lease.

The District Court granted city's motion for partial summary judgment, and entered a stipulated final judgment for condemnation. Property owners appealed, and the Court of Appeals reversed. The Supreme Court granted certiorari review.

The Supreme Court held that:

- Genuine issues of material fact as to substantial interference by city before condemnation precluded summary judgment, and
- Value of lease with tenant was potentially a compensable element of damages for city's partial taking.

Genuine issue of material fact as to substantial interference by city before condemnation of part of commercial landowner's property, including nature and extent of communications with commercial tenant, which failed to renew lease with landowner, and whether such communications were reasonable and diligent efforts at negotiation, precluded summary judgment for city on landowner's inverse condemnation claim seeking consequential damages for loss of tenant leases.

Value of commercial landowner's lease with tenant was potentially a compensable element of damages for city's partial taking of commercial landowner's property.