

Bond Case Briefs

Municipal Finance Law Since 1971

EMINENT DOMAIN - GEORGIA

City of Atlanta v. Carlisle

Court of Appeals of Georgia - May 17, 2021 - S.E.2d - 2021 WL 1960198

Homeowners brought action against the city for trespass, nuisance, a “per se” taking, and inverse condemnation, after discovering underground sanitary sewer and storm lines traversing their property.

Homeowners and city moved for summary judgment. The trial court granted partial summary judgment to the homeowners on the issue of liability and denied the city’s motion. City appealed, arguing that the claims were time barred.

The Court of Appeals held that sewer and storm lines constituted a permanent and nonabatable nuisance, and thus trespass occurred and nuisance was created, triggering accrual of statute of limitations, when sewer and storm lines were installed on property.

Sewer and storm lines constituted a permanent and nonabatable nuisance, and thus trespass occurred and nuisance was created, beginning four-year statute of limitations period for homeowners’ claims for trespass, nuisance, “per se” taking, and inverse condemnation, when sewer and storm lines were installed on property, even though homeowners were not aware of lines for decades; damage or destruction alleged to have been caused by installation of lines was completed at installation, installation was both a substantial and relatively enduring feature of plan of construction, lines were already in place when homeowners purchased their property nearly twenty years before, and homeowners were aware of lines for more than four years before filing suit.